

FRONT

COUNTY



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2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting Assessment Review Procedures

MR. EPP

EXPLANATORY NOTE

The Bill provides for a new assessment appeal procedure whereby appeals from decisions of the Assessment Review Board (formerly the Assessment Review Court) would no longer be heard by county court judges but by a division of the Ontario Municipal Board.

BILL 40

1982

An Act respecting Assessment Review Procedures

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. A reference to the Assessment Review Court in any general or special Act shall be deemed to be a reference to the Assessment Review Board. Amendments
to
references
2. The title to the *Assessment Review Court Act*, being chapter 32 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: R.S.O. 1980,
c. 32,
title,
re-enacted

ASSESSMENT REVIEW BOARD ACT

3. The *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: R.S.O. 1980,
c. 347, s. 5a,
enacted

5a.—(1) There shall be a division of the Ontario Municipal Board known as the Assessment Appeal Board. Division of
O.M.B.

(2) The Assessment Appeal Board shall hear and decide all appeals under section 42 of the *Assessment Act*. Function of
Assessment
Appeal Board
R.S.O. 1980,
c. 31

- 4.—(1) Clauses 1 (a) and (b) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor: R.S.O. 1980,
c. 31,
s. 1 (a, b),
re-enacted

(a) "Assessment Appeal Board" means the division of the Ontario Municipal Board known as the Assessment Appeal Board;

(aa) "assessment commissioner" means an assessment commissioner for a region as established by the regulations made under this Act;

(b) "Assessment Review Board" means the Assessment Review Board under the *Assessment Review Board Act*. R.S.O. 1980,
c. 32

s. 39 (13),
re-enacted;
s. 39 (14),
repealed

Notice of
decision

- (2) Subsections 39 (13) and (14) of the said Act are repealed and the following substituted therefor:

(13) When the Assessment Review Board has heard and decided a complaint, the regional registrar shall forthwith after the receipt of the record of the decision from the clerk of the board cause notice thereof to be given,

(a) where the complaint was as to the amount of the assessment, by registered mail; and

(b) in the case of all other complaints, by ordinary mail,

to the persons to whom notice of the hearing of such complaint was given, and such notice shall state thereon that such decision may be appealed to the Assessment Appeal Board within twenty-one days of the mailing of the notice and shall also contain a list of the persons to whom notice was given under subsection (4).

s. 41,
amended

- (3) Section 41 of the said Act is amended by inserting after "court" in the fourth line "and before any tribunal".

s. 42,
re-enacted;
s. 43,
repealed

- (4) Sections 42 and 43 of the said Act are repealed and the following substituted therefor:

Appeal to
Assessment
Appeal
Board

42.—(1) An appeal to the Assessment Appeal Board lies at the instance of the municipal corporation or a school board, or at the instance of the assessment commissioner, or at the instance of any person assessed or of any municipal elector of the municipality, against a decision of the Assessment Review Board on an appeal to that board, but also against any omission, neglect or refusal of that board to hear or decide an appeal.

Notice of
appeal

(2) A notice of appeal to the Assessment Appeal Board shall be sent by the party appealing, by registered mail to the Secretary of the Ontario Municipal Board and by ordinary mail to the persons to whom notice was given under subsection 39 (13), within twenty-one days after the notice of decision appealed from has been given under subsection 39 (13).

Time and
place for
hearing

(3) Upon receiving a notice of appeal under subsection 42 (2), the Secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the date of the hearing.

s. 44,
re-enacted;
s. 45,
repealed

- (5) Sections 44 and 45 of the said Act are repealed and the following substituted therefor:

New trial

44. An appeal under section 42 shall be by way of a new trial.

- (6) Section 46 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 8, is repealed and the following substituted therefor: s. 46,
re-enacted

46. The decision of the Assessment Appeal Board shall be forwarded by the Secretary of the Ontario Municipal Board to the clerk of the municipality who shall, except where an appeal from the decision is commenced, forthwith alter the assessment roll in accordance with the decision of the board, and shall write his name or initials against every alteration. Alteration
of roll by
clerk

- (7) Section 47 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 9, is repealed and the following substituted therefor: s. 47,
re-enacted

47.—(1) An appeal lies from the decision of the Assessment Appeal Board under section 42 to the Divisional Court upon all questions of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Ontario Municipal Board. Appeal to
Divisional
Court

(2) The practice and procedure on the appeal to the Divisional Court shall be the same with necessary modifications, subject to any rule of the court or regulation of the Ontario Municipal Board, as upon an appeal from a county court to the Court of Appeal. Procedure
on appeals

(3) If, by the judgment of the Divisional Court, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality concerned shall alter the assessment roll to give effect to the decision or judgment and shall write his name or initials against every alteration. Alteration
in roll as
result of
appeal to
Divisional
Court

- (8) Subsection 48 (1) of the said Act is repealed and the following substituted therefor: s. 48 (1),
re-enacted

(1) Upon an appeal on any ground against an assessment, the Assessment Review Board, Assessment Appeal Board or court, as the case may be, may reopen the whole question of the assessment so that omissions from or errors in the assessment roll may be corrected, and the amount for which the assessment should be made and the person or persons who should be assessed therefor may be placed upon the roll, and if necessary the roll of the municipality, even if returned as finally revised, may be opened so as to make it correct in accordance with the findings made on appeal. Assessment
may be
open upon
appeal

- (9) Subsections 49 (1) and (2) of the said Act are repealed and the following substituted therefor: s. 49 (1, 2),
re-enacted

Powers and
functions of
Assessment
Review Board
and Assessment
Appeal Board

(1) Upon a complaint or appeal with respect to an assessment, the Assessment Review Board or Assessment Appeal Board may review the assessment and, for the purpose of such review, has all the powers and functions of the assessor in making an assessment, determination or decision under this Act, and any such assessment, determination or decision made on review by the Assessment Review Board or Assessment Appeal Board shall, except as provided in subsection (2), be deemed to be an assessment, determination or decision of the assessor and has the same force and effect.

Decisions
re quantum,
etc., final

(2) A decision of the Assessment Review Board or Assessment Appeal Board with regard to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum is final and binding unless appealed in accordance with the provisions of this Act.

s. 49 (3),
amended

(10) Subsection 49 (3) of the said Act is amended by striking out "39, 42 and 47" in the second line and inserting in lieu thereof "39 and 42".

s. 50 (6),
re-enacted

(11) Subsection 50 (6) of the said Act is repealed and the following substituted therefor:

Judgment
of court
binding on
Assessment
Review
Board, etc.

(6) Notwithstanding that a question of the assessment of any person is pending before the Assessment Review Board or the Assessment Appeal Board, the judgment of the Supreme Court, the county court or the Divisional Court shall be given effect to and is binding upon the Assessment Review Board and the Assessment Appeal Board.

s. 51 (b, c),
re-enacted;
s. 51 (d),
repealed

(12) Clauses 51 (b), (c) and (d) of the said Act are repealed and the following substituted therefor:

(b) where a complaint with respect to the assessment is made to the Assessment Review Board, except within the time limited for appealing from the decision of the Assessment Review Board to the Assessment Appeal Board; and

(c) where an appeal is made from the decision of the Assessment Review Board to the Assessment Appeal Board, except within fifteen days after the date of the decision of the Assessment Appeal Board.

s. 65 (1),
re-enacted

(13) Subsection 65 (1) of the said Act is repealed and the following substituted therefor:

Powers
of appeal

(1) The Assessment Review Board, Assessment Appeal Board or any court, in determining the value at which any real property

shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Assessment Appeal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
6. The short title of this Act is the *Assessment Appeal Procedure Amendment Act, 1982*. Short title

An Act respecting
Assessment Review Procedures

1st Reading

March 30th, 1982

2nd Reading

3rd Reading

Mr. EPP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to establish the Ministry of Tourism and Recreation

THE HON. R. BAETZ
Minister of Tourism and Recreation

EXPLANATORY NOTE

The Bill establishes the Ministry of Tourism and Recreation, whose objectives are set out in section 4 of the Bill.

BILL 41

1982

An Act to establish the Ministry of Tourism and Recreation

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

- (a) "Deputy Minister" means the Deputy Minister of Tourism and Recreation;
- (b) "Minister" means the Minister of Tourism and Recreation;
- (c) "Ministry" means the Ministry of Tourism and Recreation.

2. There shall be a ministry of the public service to be known as the Ministry of Tourism and Recreation. Ministry
established

3. The Minister shall preside over and have charge of the Ministry and has power to act for and on behalf of the Ministry. Minister
to have
charge

4. The Ministry shall, Objectives
of Ministry

- (a) promote tourism and recreation in Ontario to residents of Ontario and other jurisdictions;
- (b) cause the Ministry to stimulate employment and income opportunities through the effective development of tourism and recreation;
- (c) encourage and support the use of parks, tourist facilities and attractions in Ontario;
- (d) ensure that adequate opportunities are available to all residents of Ontario to pursue recreational, sports and fitness activities appropriate to their needs and interests;

(e) provide recreational, sports and fitness resources to municipalities and to provincial recreational and sports organizations; and

(f) encourage and promote improvement in the standards of accommodation, facilities and services offered to the travelling and vacationing public.

Adminis-
tration
of Acts

5. The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Tourism and Recreation who shall be the deputy head of the Ministry.

Idem

(2) Under the direction of the Minister, the Deputy Minister shall perform such duties as the Minister may assign or delegate to him.

Employment
of persons
outside
Ontario

7.—(1) For the purpose of exercising any of his powers or carrying out any of his duties and functions, the Minister may employ a person who resides outside of Ontario in the service of the Crown in the country, territory or province in which the person resides.

Not
Crown
employees

(2) A person employed under subsection (1) is not a Crown employee for the purpose of any Act of the Legislature or any regulation made thereunder.

Delegation
of powers
and duties

8.—(1) Where, under this or any other Act, a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation.

Contracts
and
agreements
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) has the same effect as if made and signed by the Minister.

Protection
from
personal
liability

9.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under the Deputy Minister's authority for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort as if subsection (1) had not been enacted. Crown liability R.S.O. 1980, c. 393

10.—(1) The Minister may, on request, inspect any document or record relating to financial assistance given by the Ministry and may require the recipient of financial assistance to prepare and submit a financial statement setting out the details of the disposition of the assistance. Inspection of financial records

(3) No person shall obstruct the Minister or a person acting under the Minister's authority in an inspection under this section. Offence

(3) Every person who knowingly contravenes subsection (2) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Penalty

(4) Notwithstanding subsection (3), where a corporation is convicted of an offence under subsection (3) the maximum penalty that may be imposed upon the corporation is \$25,000. Idem

11.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry. Seal

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed. Idem

12. A reference to the Minister of Culture and Recreation, the Minister of Industry and Tourism, or the Minister of Natural Resources, as the case may be, in any Act listed in the Schedule, or in any regulation, order in council, ministerial order, act or thing made or done under any such Act, shall be deemed to be a reference to the Minister of Tourism and Recreation, so long as the Minister administers such Act, and a reference therein to the Ministry of Culture and Recreation, the Ministry of Industry and Tourism or the Ministry of Natural Resources shall be deemed to be a reference to the Ministry of Tourism and Recreation. References to Ministers and Ministries

13. The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing for and authorizing the conduct of recreational programs in municipalities and territories without municipal organization, by municipal corporations, local services boards, non-profit corporations, school

R.S.C. 1970,
c. I-6

boards, bands as defined in the *Indian Act* (Canada) and other persons;

- (b) providing for programs of financial assistance for the objectives of this Act;
- (c) prescribing conditions, one of which may be the approval of the Minister, governing grants of financial assistance;
- (d) authorizing the payment, with the approval of the Minister, and fixing the amounts of financial assistance by way of special grants for recreational programs;
- (e) providing for the recovery of financial assistance given by the Ministry and prescribing the circumstances and manner in which such recovery may be made;
- (f) governing the granting, issue and form of certificates recognizing levels of experience in recreation.

Public
accounts for
1981-82

14. The public accounts for the fiscal year 1981-82 may show the moneys that were appropriated for the ministries of Culture and Recreation, Industry and Tourism and Natural Resources as expended by those ministries, notwithstanding the reassignment of powers and duties to the Minister of Tourism and Recreation under the *Executive Council Act* before the expiration of that fiscal year.

R.S.O. 1980,
c. 147

Commence-
ment

15. This Act shall be deemed to have come into force on the 1st day of April, 1982.

Short title

16. The short title of this Act is the *Ministry of Tourism and Recreation Act, 1982*.

SCHEDULE

Community Recreation Centres Act

Historical Parks Act

Niagara Parks Act

Ontario Lottery Corporation Act

Ontario Place Corporation Act

St. Clair Parkway Commission Act

St. Lawrence Parks Commission Act

Tourism Act

An Act to establish the
Ministry of Tourism and Recreation

1st Reading

April 1st, 1982

2nd Reading

3rd Reading

THE HON. R. BAETZ
Minister of Tourism and Recreation

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to establish the Ministry of Tourism and Recreation

THE HON. R. BAETZ
Minister of Tourism and Recreation

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill establishes the Ministry of Tourism and Recreation, whose objectives are set out in section 4 of the Bill.

BILL 41

1982

An Act to establish the Ministry of Tourism and Recreation

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Deputy Minister" means the Deputy Minister of Tourism and Recreation;
- (b) "Minister" means the Minister of Tourism and Recreation;
- (c) "Ministry" means the Ministry of Tourism and Recreation.

2. There shall be a ministry of the public service to be known as the Ministry of Tourism and Recreation.

Ministry
established

3. The Minister shall preside over and have charge of the Ministry and has power to act for and on behalf of the Ministry.

Minister
to have
charge

4. The Ministry shall,

Objectives
of Ministry

- (a) promote tourism and recreation in Ontario to residents of Ontario and other jurisdictions;
- (b) cause the Ministry to stimulate employment and income opportunities through the effective development of tourism and recreation;
- (c) encourage and support the use of parks, tourist facilities and attractions in Ontario;
- (d) ensure that adequate opportunities are available to all residents of Ontario to pursue recreational, sports and fitness activities appropriate to their needs and interests;

(e) provide recreational, sports and fitness resources to municipalities and to provincial recreational and sports organizations; and

(f) encourage and promote improvement in the standards of accommodation, facilities and services offered to the travelling and vacationing public.

Adminis-
tration
of Acts

5. The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Tourism and Recreation who shall be the deputy head of the Ministry.

Idem

(2) Under the direction of the Minister, the Deputy Minister shall perform such duties as the Minister may assign or delegate to him.

Employment
of persons
outside
Ontario

7.—(1) For the purpose of exercising any of his powers or carrying out any of his duties and functions, the Minister may employ a person who resides outside of Ontario in the service of the Crown in the country, territory or province in which the person resides.

Not
Crown
employees

(2) A person employed under subsection (1) is not a Crown employee for the purpose of any Act of the Legislature or any regulation made thereunder.

Delegation
of powers
and duties

8.—(1) Where, under this or any other Act, a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation.

Contracts
and
agreements
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) has the same effect as if made and signed by the Minister.

Protection
from
personal
liability

9.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under the Deputy Minister's authority for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort as if subsection (1) had not been enacted. Crown liability R.S.O. 1980, c. 393

10.—(1) The Minister may, on request, inspect any document or record relating to financial assistance given by the Ministry and may require the recipient of financial assistance to prepare and submit a financial statement setting out the details of the disposition of the assistance. Inspection of financial records

(3) No person shall obstruct the Minister or a person acting under the Minister's authority in an inspection under this section. Offence

(3) Every person who knowingly contravenes subsection (2) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Penalty

(4) Notwithstanding subsection (3), where a corporation is convicted of an offence under subsection (3) the maximum penalty that may be imposed upon the corporation is \$25,000. Idem

11.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry. Seal

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed. Idem

12. A reference to the Minister of Culture and Recreation, the Minister of Industry and Tourism, or the Minister of Natural Resources, as the case may be, in any Act listed in the Schedule, or in any regulation, order in council, ministerial order, act or thing made or done under any such Act, shall be deemed to be a reference to the Minister of Tourism and Recreation, so long as the Minister administers such Act, and a reference therein to the Ministry of Culture and Recreation, the Ministry of Industry and Tourism or the Ministry of Natural Resources shall be deemed to be a reference to the Ministry of Tourism and Recreation. References to Ministers and Ministries

13. The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing for and authorizing the conduct of recreational programs in municipalities and territories without municipal organization, by municipal corporations, local services boards, non-profit corporations, school

R.S.C. 1970,
c. I-6

boards, bands as defined in the *Indian Act* (Canada) and other persons;

- (b) providing for programs of financial assistance for the objectives of this Act;
- (c) prescribing conditions, one of which may be the approval of the Minister, governing grants of financial assistance;
- (d) authorizing the payment, with the approval of the Minister, and fixing the amounts of financial assistance by way of special grants for recreational programs;
- (e) providing for the recovery of financial assistance given by the Ministry and prescribing the circumstances and manner in which any such recovery may be made;
- (f) governing the granting, issue and form of certificates recognizing levels of experience in recreation.

Public
accounts for
1981-82

14. The public accounts for the fiscal year 1981-82 may show the moneys that were appropriated for the ministries of Culture and Recreation, Industry and Tourism and Natural Resources as expended by those ministries, notwithstanding the reassignment of powers and duties to the Minister of Tourism and Recreation under the *Executive Council Act* before the expiration of that fiscal year.

R.S.O. 1980,
c. 147

Annual
report

15. The Minister shall in each year submit to the Lieutenant Governor in Council a report of the proceedings of the Ministry during the next preceding fiscal year, and such report shall be laid before the Assembly forthwith, but if the Legislature is not at the time in session, then within thirty days after the commencement of the next session.

Commence-
ment

16. This Act shall be deemed to have come into force on the 1st day of April, 1982.

Short title

17. The short title of this Act is the *Ministry of Tourism and Recreation Act, 1982*.

SCHEDULE

Community Recreation Centres Act

Historical Parks Act

Niagara Parks Act

Ontario Lottery Corporation Act

Ontario Place Corporation Act

St. Clair Parkway Commission Act

St. Lawrence Parks Commission Act

Tourism Act

An Act to establish the
Ministry of Tourism and Recreation

1st Reading

April 1st, 1982

2nd Reading

April 30th, 1982

3rd Reading

THE HON. R. BAETZ
Minister of Tourism and Recreation

*(Reprinted as amended by the Committee
of the Whole House)*

BILL 41

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to establish the Ministry of Tourism and Recreation

THE HON. R. BAETZ
Minister of Tourism and Recreation

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 41

1982

An Act to establish the Ministry of Tourism and Recreation

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

- (a) "Deputy Minister" means the Deputy Minister of Tourism and Recreation;
- (b) "Minister" means the Minister of Tourism and Recreation;
- (c) "Ministry" means the Ministry of Tourism and Recreation.

2. There shall be a ministry of the public service to be known Ministry
established as the Ministry of Tourism and Recreation.

3. The Minister shall preside over and have charge of the Minister
to have
charge Ministry and has power to act for and on behalf of the Ministry.

4. The Ministry shall, Objectives
of Ministry

- (a) promote tourism and recreation in Ontario to residents of Ontario and other jurisdictions;
- (b) cause the Ministry to stimulate employment and income opportunities through the effective development of tourism and recreation;
- (c) encourage and support the use of parks, tourist facilities and attractions in Ontario;
- (d) ensure that adequate opportunities are available to all residents of Ontario to pursue recreational, sports and fitness activities appropriate to their needs and interests;

- (e) provide recreational, sports and fitness resources to municipalities and to provincial recreational and sports organizations; and
- (f) encourage and promote improvement in the standards of accommodation, facilities and services offered to the travelling and vacationing public.

Adminis-
tration
of Acts

5. The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Tourism and Recreation who shall be the deputy head of the Ministry.

Idem

(2) Under the direction of the Minister, the Deputy Minister shall perform such duties as the Minister may assign or delegate to him.

Employment
of persons
outside
Ontario

7.—(1) For the purpose of exercising any of his powers or carrying out any of his duties and functions, the Minister may employ a person who resides outside of Ontario in the service of the Crown in the country, territory or province in which the person resides.

Not
Crown
employees

(2) A person employed under subsection (1) is not a Crown employee for the purpose of any Act of the Legislature or any regulation made thereunder.

Delegation
of powers
and duties

8.—(1) Where, under this or any other Act, a power or duty is granted to or vested in the Minister, the Minister may in writing delegate that power or duty to the Deputy Minister or to any officer or employee of the Ministry, subject to such limitations, restrictions, conditions and requirements as may be set out in the delegation.

Contracts
and
agreements
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) has the same effect as if made and signed by the Minister.

Protection
from
personal
liability

9.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under the Deputy Minister's authority for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort as if subsection (1) had not been enacted. Crown liability
R.S.O. 1980,
c. 393

10.—(1) The Minister may, on request, inspect any document or record relating to financial assistance given by the Ministry and may require the recipient of financial assistance to prepare and submit a financial statement setting out the details of the disposition of the assistance. Inspection
of financial
records

(3) No person shall obstruct the Minister or a person acting under the Minister's authority in an inspection under this section. Offence

(3) Every person who knowingly contravenes subsection (2) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Penalty

(4) Notwithstanding subsection (3), where a corporation is convicted of an offence under subsection (3) the maximum penalty that may be imposed upon the corporation is \$25,000. Idem

11.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry. Seal

(2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed. Idem

12. A reference to the Minister of Culture and Recreation, the Minister of Industry and Tourism, or the Minister of Natural Resources, as the case may be, in any Act listed in the Schedule, or in any regulation, order in council, ministerial order, act or thing made or done under any such Act, shall be deemed to be a reference to the Minister of Tourism and Recreation, so long as the Minister administers such Act, and a reference therein to the Ministry of Culture and Recreation, the Ministry of Industry and Tourism or the Ministry of Natural Resources shall be deemed to be a reference to the Ministry of Tourism and Recreation. References
to Ministers
and
Ministries

13. The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing for and authorizing the conduct of recreational programs in municipalities and territories without municipal organization, by municipal corporations, local services boards, non-profit corporations, school

R.S.C. 1970,
c. I-6

boards, bands as defined in the *Indian Act* (Canada) and other persons;

- (b) providing for programs of financial assistance for the objectives of this Act;
- (c) prescribing conditions, one of which may be the approval of the Minister, governing grants of financial assistance;
- (d) authorizing the payment, with the approval of the Minister, and fixing the amounts of financial assistance by way of special grants for recreational programs;
- (e) providing for the recovery of financial assistance given by the Ministry and prescribing the circumstances and manner in which any such recovery may be made;
- (f) governing the granting, issue and form of certificates recognizing levels of experience in recreation.

Public
accounts for
1981-82

14. The public accounts for the fiscal year 1981-82 may show the moneys that were appropriated for the ministries of Culture and Recreation, Industry and Tourism and Natural Resources as expended by those ministries, notwithstanding the reassignment of powers and duties to the Minister of Tourism and Recreation under the *Executive Council Act* before the expiration of that fiscal year.

R.S.O. 1980,
c. 147

Annual
report

15. The Minister shall in each year submit to the Lieutenant Governor in Council a report of the proceedings of the Ministry during the next preceding fiscal year, and such report shall be laid before the Assembly forthwith, but if the Legislature is not at the time in session, then within thirty days after the commencement of the next session.

Commence-
ment

16. This Act shall be deemed to have come into force on the 1st day of April, 1982.

Short title

17. The short title of this Act is the *Ministry of Tourism and Recreation Act, 1982*.

SCHEDULE

Community Recreation Centres Act

Historical Parks Act

Niagara Parks Act

Ontario Lottery Corporation Act

Ontario Place Corporation Act

St. Clair Parkway Commission Act

St. Lawrence Parks Commission Act

Tourism Act

An Act to establish the
Ministry of Tourism and Recreation

1st Reading

April 1st, 1982

2nd Reading

April 30th, 1982

3rd Reading

May 3rd, 1982

THE HON. R. BAETZ
Minister of Tourism and Recreation

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting
the Rights of Non-Unionized Workers**

MR. HAGGERTY

EXPLANATORY NOTE

The purpose of the Bill is to provide a low cost mechanism whereby a non-unionized worker may obtain a review by the Ontario Labour Relations Board where the worker is discharged or otherwise disciplined for cause and the contract of employment is silent on matters of discipline. At the present time, a non-unionized worker who is dismissed or otherwise disciplined for cause may have no right of action against his employer notwithstanding the fact that the discipline is, having regard to all of the circumstances, unduly harsh.

The Bill provides a two stage process for reviewing complaints involving harsh discipline. Initially, a labour relations officer would be appointed to effect a settlement which would be reduced to writing and which would have to be complied with according to its terms. Then, if no settlement is reached, or where settlement is not likely, the Ontario Labour Relations Board would inquire into the matter. The Board, if satisfied that the complaint is justified, will have the power to make an order substituting such penalty as is just and reasonable in the circumstances.

BILL 42 1982

An Act respecting the Rights of Non-Unionized Workers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Board" means the Ontario Labour Relations Board;

(b) "complaint" means a complaint filed with the Board under subsection 2 (1).

2.—(1) Where an employee who has been discharged or otherwise disciplined for cause by his employer is of the opinion that the penalty is unduly harsh and where the employee's contract of employment is not governed by a collective agreement under the *Labour Relations Act* and does not contain a specific penalty for the infraction for which the discharge or other discipline was imposed, the employee may file a complaint with the Board.

Complaint
to
O.L.R.B.

R.S.O. 1980,
c. 228

(2) Any regulations governing the practice and procedure of the Board apply, with necessary modifications, to a review under subsection 3 (2) and to a complaint.

Procedure

(3) The Board may authorize a labour relations officer to inquire into a complaint.

Inquiry
by labour
relations
officer

(4) The labour relations officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

Duties

(5) The labour relations officer shall report the results of his inquiry and endeavours to the Board.

Report

(6) Where a labour relations officer is unable to effect a settlement of the complaint or where the Board in its dis-

Remedy

cretion considers it advisable to dispense with an inquiry by a labour relations officer, the Board may inquire into the complaint and where the Board is satisfied that the discharge or other discipline imposed was unduly harsh, the Board may, by order, substitute such other penalty for the discharge or other discipline as to the Board seems just and reasonable in all the circumstances.

Idem

(7) Without limiting the generality of subsection (6),

(a) where an employee has been discharged, the Board, in an order made under subsection (6) may order that the employee be reinstated in employment, with or without compensation or that the employee be compensated in lieu of reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer;

(b) where an employee has been suspended, the Board, in an order made under subsection (6), may order that the employee be compensated for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer.

Effect of
settlement

3.—(1) Where a complaint has been settled whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed by the employer or his representative and the employee, the settlement is binding upon the employer and the employee and shall be complied with according to its terms.

Review of
settlement

(2) Where either the employer or the employee alleges that the other party has breached any term of a settlement referred to in subsection (1), the employer or the employee, as the case may be, may apply to the Board for a review of the matter and the Board, after an inquiry, may order that,

(a) the employee or employer comply with the terms of the settlement; or

(b) vary the terms of the settlement and order compliance with the terms of the settlement as varied.

Enforce-
ment of
orders

4. Where either the employer or the employee has failed to comply with any of the terms of an order made under subsection 2 (6) or subsection 3 (2) the other party may, after the

expiration of fourteen days from the date of the order or the date provided in the order for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the order, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable as such.

5. The rights conferred by this Act are in addition to any other rights that an employee may have at law but, where a complaint is filed, any action brought by the employee in a court of law related to the discharge or discipline of the employee may be stayed pending the disposition of the matter by the Board. <sup>No
derogation
of rights</sup>

6. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

7. The short title of this Act is the *Non-Unionized Workers Protection Act, 1982*. ^{Short title}

An Act respecting the
Rights of Non-Unionized Workers

1st Reading

April 5th, 1982

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to relieve Persons from Liability
in respect of voluntary Emergency
Medical and First Aid Services**

MR. HAGGERTY

AN ACT TO RELIEVE PERSONS FROM LIABILITY IN RESPECT OF
VOLUNTARY EMERGENCY FIRST AID ASSISTANCE OR MEDICAL SERVICES RENDERED AT OR
NEAR THE SCENE OF AN ACCIDENT OR OTHER SUDDEN EMERGENCY.

EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

1911

BILL 43 AN ACT TO RELIEVE PERSONS FROM LIABILITY **1982**

**An Act to relieve Persons from Liability
in respect of voluntary Emergency
Medical and First Aid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "physician" means a medical practitioner licensed under Part III of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

- (b) "registered nurse" means a person who is the holder of a certificate as a registered nurse issued under Part IV of the *Health Disciplines Act*.

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other emergency,

Relief
from
liability
for
damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and the services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause (a) voluntarily renders emergency first aid assistance and the assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his or her part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by the gross negligence of the physician, registered nurse or other person.

Act does
not apply
to normal
medical
services

3. Nothing in section 2 shall be construed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Good Samaritan Act, 1982*.

an Act to relieve Persons from Liability in
respect of voluntary Emergency Medical
and First Aid Services

1st Reading

April 5th, 1982

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. HAGGERTY

EXPLANATORY NOTE

The purpose of the Bill is to provide a mechanism whereby the Lieutenant Governor in Council can order a sixty-day suspension of a strike or lock-out and order a return to work where the strike or lock-out constitutes an immediate and serious danger to life, health or safety or seriously disrupts the economy of the province or any area of the province.

The Bill provides that the Minister of Labour must appoint a conciliation officer where an order suspending a strike or lock-out has been made and may subsequently appoint a conciliation board where the efforts of the conciliation officer to effect a collective agreement are unsuccessful.

If conciliation efforts are unsuccessful, the strike or lock-out may be resumed without a further strike vote.

An order made under the Bill would be enforceable as an order of the Supreme Court.

BILL 44

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 17,
amended

(3) This section does not apply where an order has been made under subsection 55a (1). Application

2. The said Act is amended by adding thereto the following section: s. 55a,
enacted

SUSPENSION OF STRIKES OR LOCK-OUTS

55a.—(1) Where during a strike or lock-out the Lieutenant Governor in Council is of the opinion that the strike or lock-out, Lieutenant
Governor
in Council
may by order
suspend a
strike or
lock-out
and order
a return
to work

- (a) constitutes an immediate and serious danger to life, health or safety; or
- (b) seriously disrupts the economy of the Province or any area of the Province,

the Lieutenant Governor in Council may order,

- (c) a suspension of the strike or lock-out and a return to work for a period not exceeding sixty days in length, commencing on the day next following the date of the order; or
- (d) a suspension of the strike or lock-out in respect of designated facilities and services that the Lieutenant Governor in Council determines are necessary or

essential to prevent immediate and serious danger to life, health or safety and a return to work with respect to such facilities and services for a period not exceeding sixty days in length, commencing on the day next following the date of the order.

Appointment
of conciliation
officer and
conciliation
board

(2) Where an order is made under clause (1) (c) or (d), the Minister shall appoint a conciliation officer and may subsequently appoint a conciliation board and sections 18 to 32 apply with necessary modifications to such appointments.

Resumption
of strike
or lock-out

(3) The parties may resume the strike or lock-out when,

(a) the Minister gives a notice to the parties under clause 19 (b);

(b) a conciliation board report is released under subsection 32 (5); or

(c) the order made under subsection (1) expires,

whichever occurs first.

Enforcement
of orders

(4) The Minister may file in the office of the Registrar of the Supreme Court a copy of an order made under subsection (1), in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable by the Minister or by a trade union or employer affected as a judgment or order of that court.

Limitation
on orders

(5) The Lieutenant Governor in Council shall not make an order under subsection (1) more than once in respect of the same dispute.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1982*.

An Act to amend the
Labour Relations Act

1st Reading

April 5th, 1982

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to protect and enhance the Quality of
Drinking Water in Ontario**

MR. CHARLTON

EXPLANATORY NOTE

The Bill is intended to protect and enhance drinking water quality in Ontario.

It provides opportunities for public involvement in the making of regulations to set maximum permissible levels for contaminants and other substances in drinking water. These regulations would apply to both public and private water systems.

The operator of a public water system is required to monitor water quality regularly and notify the users of the system as well as the Minister of the Environment of the results. Any user of a private water system may have the water tested by the Ministry of the Environment.

It is an offence for the operator of a public water system to provide water which contravenes the regulations or to fail to comply with monitoring and notice requirements. It is an offence for anyone to pollute a public or private water system.

The Bill permits water users to sue to recover damages for contraventions of the Act and gives any person standing to seek judicial review against the Minister of the Environment.

The Minister is authorized to commission research into matters related to drinking water quality and an advisory council is created to assist the Minister.

BILL 45

1982

An Act to protect and enhance the Quality of Drinking Water in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Inter-
pre-
tation

- (a) "Board" means the Water Review Board;
- (b) "contaminant" means any biological, chemical or physical agent or combination thereof prescribed as a contaminant;
- (c) "Gazette" means The Ontario Gazette;
- (d) "Minister" means the Minister of the Environment;
- (e) "prescribed" means prescribed by the regulations;
- (f) "private water system" means any water system that has fewer than fifteen service connections or regularly serves fewer than twenty-five individuals;
- (g) "public water supplier" means a person who operates a public water system;
- (h) "public water system" means any water system that has fifteen or more service connections or regularly serves twenty-five or more individuals;
- (i) "substance" means anything that affects the odour, appearance or taste of drinking water and is prescribed as a substance;
- (j) "user", when used in connection with a water system or public water supplier, means a person who obtains water from the system or supplier;
- (k) "water system" means any works for the collection, supply and distribution of water that may be used as drinking water.

Purpose

2. The purpose of this Act is the protection and enhancement of drinking water quality throughout Ontario.

DUTIES OF SUPPLIERS

Duties of
supplier

3. Every public water supplier shall,

- (a) conduct complete water tests in accordance with the regulations, monthly or more frequently as may be prescribed by regulation, to establish contaminant and substance levels and compliance with prescribed standards;
- (b) promptly publish the results of all tests conducted under clause (a) in a newspaper that is published in the community where the supplier's regular users reside;
- (c) supply the results of all tests conducted under clause (a) to every user together with the regular water bill;
- (d) promptly report the results of all tests conducted under clause (a) to the Minister;
- (e) keep full records of all tests conducted under clause (a) and make them available to any person upon request;
- (f) where a test reveals that maximum permitted contaminant levels or maximum permitted substance levels are exceeded or prescribed standards are not adhered to,
 - (i) take immediate steps to cause the water to comply with this Act and the regulations, and
 - (ii) make an alternate supply of safe drinking water available to all users until the main supply complies with this Act and the regulations.

PUBLIC INVOLVEMENT IN REGULATION-MAKING

Draft
regulations
concerning
contaminants

4.—(1) The Minister shall within 180 days after the day this Act comes into force publish in the Gazette a notice setting forth proposed regulations under clause 14 (2) (b) and calling for briefs and submissions in connection therewith.

Objection

(2) Any person may within ninety days after the publication of a notice under subsection (1) or (6) require the Board to hold a hearing into any of the proposed regulations by delivering a notice of objection to the Board.

(3) The Board shall hold any hearing required under subsection (2), expeditiously and may consolidate any such hearings where common issues are raised. Hearing

(4) Upon completion of all hearings under subsection (2), the Board shall report its findings and conclusions to the Minister and shall provide a copy of the report to every person who delivered a notice of objection under subsection (2). Report

(5) Regulations under clause 14 (2) (b) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(6) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (b), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

5.—(1) The Minister shall within 240 days after the day this Act comes into force publish in the Gazette a notice setting forth proposed regulations under clause 14 (2) (c) and calling for briefs and submissions in connection therewith. Draft regulations concerning substances

(2) Regulations under clause 14 (2) (c) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(3) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (c), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

OFFENCES

6.—(1) No public water supplier shall cause or permit to be supplied to users, Supplying unsafe water

(a) water containing any contaminant that exceeds the applicable maximum permitted level; or

(b) water containing any substance that contravenes a prescribed standard or exceeds the applicable maximum permitted level.

(2) No person shall deposit in, add to, emit or discharge into a public water system or a private water system any contaminant or substance so as to cause the water to exceed the maximum permitted level for the contaminant or substance or to contravene a prescribed standard. Polluting water system

Penalties

7. Any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to,

- (a) in the case of a contravention of section 6 that relates to a contaminant, a fine not exceeding \$50,000; and
- (b) in the case of any other contravention, a fine not exceeding \$25,000.

PRIVATE REMEDIES

Action for damages

8.—(1) Any person may, by action, recover damages caused by a contravention of this Act or the regulations from the person who committed the contravention.

Judicial review

(2) Any person may apply for judicial review of the Minister's exercise or non-exercise of any power or fulfilment or non-fulfilment of any duty conferred or imposed on the Minister by this Act, whether or not the person applying is specially affected or has suffered special damages.

WATER REVIEW BOARD AND WATER ADVISORY COUNCIL

Water Review Board established

9.—(1) The Water Review Board is hereby established and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service.

Chairman and vice-chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) Three members of the Board constitute a quorum.

Remuneration

(4) The members of the Board may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

One member may conduct hearing

(5) The chairman may authorize one member of the Board to conduct a hearing by the Board and the member has all the powers of the Board for the purpose of the hearing.

Report

(6) The report of such member may be adopted as the decision of the Board by two other members of the Board, one of whom shall be the chairman or vice-chairman or may be otherwise dealt with as the Board considers proper.

10.—(1) The Water Advisory Council is hereby established and shall consist of not fewer than ten and not more than fifteen persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years. Water
Advisory
Council
established

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chairman and another of the members as vice-chairman. Chairman
and vice-
chairman

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to drinking water quality. Members

(4) A retiring member of the Council is eligible for reappointment. Reappoint-
ments

(5) The members of the Council may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. Remuneration

11. The Water Advisory Council, through its chairman, shall, Duties of
Council

(a) advise the Minister as to the results of current research related to,

(i) drinking water quality, and

(ii) contaminants and substances and their effects;
and

(b) consider any matter affecting drinking water quality that the Council or the Minister considers advisable and advise the Minister thereon.

STUDIES

12. The Minister shall cause research to be conducted into, Research

(a) the causes, diagnosis, treatment, control and prevention of health effects associated with contaminants or substances;

(b) the quality, quantity and availability of private water supplies;

(c) the sources of surface and ground water contamination;
and

(d) methods of treating or purifying drinking water.

Testing of
private water
system

13. The Minister shall, at the request of any user of a private water system, cause the water to be tested in accordance with the regulations to establish contaminant and substance levels and compliance with prescribed standards.

Regulations

14.—(1) The Lieutenant Governor in Council may make such regulations as are advisable to protect and enhance drinking water quality throughout Ontario.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) designating any biological, chemical or physical agents or combinations thereof as contaminants and prescribing maximum permissible contaminant levels;
- (b) designating anything as a substance, prescribing standards for substances in water and prescribing maximum permissible substance levels;
- (c) respecting procedures for water tests to be conducted under clause 3 (a) and section 13; and
- (d) prescribing greater frequencies than monthly for water tests to be conducted under clause 3 (a) and prescribing the circumstances under which such more frequent tests shall be conducted.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Ontario Safe Drinking Water Act, 1982*.

An Act to protect and enhance the Quality
of Drinking Water in Ontario

1st Reading

April 6th, 1982

2nd Reading

3rd Reading

MR. CHARLTON

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Education Act

THE HON. B. M. STEPHENSON
Minister of Education and Minister of Colleges and Universities

EXPLANATORY NOTES

SECTION 1.—Subsection 1. “band” and “council of the band” are defined in the Act for the first time since reference is now made to them in connection with agreements for the education of Indian pupils.

The definition of “credit” has been used for several years in regulations made under the Act and is now being included in the Act for convenience of reference.

A definition of “education authority” is required because of the use of this term in the Act.

The definition of “Indian” has been removed from subsection 11 (2) of the Act and now appears in the interpretation section.

Subsection 2. Paragraph 66 of subsection 1 (1) of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. “teacher” means a person who holds a valid certificate of qualification as a teacher in an elementary or a secondary school in Ontario.

The amendment includes in the definition of teacher a person who holds a letter of standing. Such a person is always intended to be included when a teacher is spoken of in the Act and the regulations.

Subsection 3. The provisions of subsection 1 (3) of *The Education Act, 1974* were not included in the 1980 revision of the *Education Act*. Concern has been expressed that repeal of the provisions re-enacted by this section casts doubt upon the continuity of certain school jurisdictions, therefore the subsection is re-enacted retroactively to the coming into force of the Revised Statutes of Ontario, 1980.

SECTION 2. The amendment authorizes the Minister to delegate powers and duties to the Deputy Minister or to any officer in the Ministry of Education and provides that a contract entered into under such delegated authority is binding on the Crown.

SECTION 3.—Subsection 1. Clause 8 (1) (i) of the Act now reads as follows:

8.—(1) *The Minister may,*

(i) *grant a letter of standing to a person who is a qualified teacher in a jurisdiction outside Ontario and who holds academic and professional qualifications equivalent to those required in Ontario at the time of the issuing of the letter of standing.*

The purpose of the amendment is to permit the Minister to deem pupils of boards on co-operative education or work experience programs to be employees of Ontario to enable them to be eligible for compensation under the *Workmen's Compensation Act*.

The present clause (i) is repealed as the granting of letters of standing is dealt with by the regulations.

Subsection 2. Clause 8 (1) (m) of the Act now reads as follows:

8.—(1) *The Minister may,*

(m) suspend or cancel and reinstate any interim, temporary, permanent, special or other certificate of qualification or letter of standing.

The words being deleted by the amendment are made unnecessary by the new Ontario Teacher's Qualifications Regulation.

Subsection 3. Clause 8 (1) (p) of the Act now reads as follows:

8.—(1) *The Minister may,*

(p) provide or approve and review courses for teachers, principals and supervisory officers.

The purpose of the amendment is to authorize the Minister to provide or approve courses for attendance counsellors and native counsellors and to grant certificates to such persons.

Subsection 4. Clause 8 (1) (r) of the Act now reads as follows:

8.—(1) *The Minister may,*

(r) provide for, and prescribe the conditions of, the granting of scholarships, bursaries and awards to pupils.

The amendment authorizes the Minister to provide for and prescribe the conditions of the granting of bursaries to teachers.

Subsection 5. The amendment clarifies the authority of the Minister to issue guidelines with respect to school closings.

SECTION 4.—Subsection 1. Paragraph 11 of subsection 10 (1) of the Act now reads as follows:

10.—(1) *Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money,*

- 11. governing the granting, suspending and cancelling of permanent, temporary, interim, special and other certificates of qualification, and letters of standing.*

The words being deleted by the amendment are made unnecessary by the new Ontario Teacher's Qualifications Regulation.

Subsection 2. The new paragraph 11a authorizes the making of regulations to provide for the issuing of the teacher's qualifications record cards and governing the qualifications that may be recorded thereon.

Subsection 3. Paragraph 24 of subsection 10 (1) of the Act now reads as follows:

- 10.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money,*

- 24. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, directors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, school attendance counsellors and other officials.*

The purpose of the amendment is to update present terminology. The only bursars in the present system are employed in the Ontario Schools for the Blind and the Ontario Schools for the Deaf and these persons are now called business administrators. The persons formerly known as matrons in the same schools are now referred to as residence counsellors.

Subsection 4. Under the powers of a board to provide educational programs and activities, a board may have the power to engage in programs and activities that are, or may be, in competition with the private sector. The new paragraph 33 of subsection 10 (1) will enable regulations to be made to regulate and control or, where appropriate, to prohibit a board from engaging in such programs and activities.

Subsection 5. Clause 10 (8) (b) of the Act now reads as follows:

- (8) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,*

- (b) prescribing the fee to be paid to the Ministry for duplicates of certificates of qualification and letters of standing.*

The amendment permits regulations to be made prescribing the fee to be paid for duplicates of Ontario Teacher's Qualifications Record Cards.

SECTION 5.—Subsection 1. Subsection 11 (2) of the Act now reads as follows:

- (2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the Indian Act (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act.*

This amendment is complementary to subsection 1 (1) of the Bill.

Subsection 2. The new subsection (2a) permits Ontario to enter into an agreement with a band, council of the band or an education authority for the education of non-Indian pupils in schools operated by such band, the council of the band or education authority.

SECTION 6. Clause 12 (6) (g) of the Act now reads as follows:

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to schools continued or established under this section,

(g) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit.

The purpose of the amendment is to refer to the person formerly known as the bursar of an Ontario School for the Blind or an Ontario School for the Deaf as the business administrator.

SECTION 7. Subsection 25 (1) now implies that a warrant is needed to enter a dwelling place to remove therefrom a truant child. The words "without a warrant" are removed from the section as no such warrant exists.

SECTION 8. The amendment permits a judge to require a bond in addition to a fine for neglecting or refusing to cause a child to attend school. The original subsection provides that a bond can be imposed only in lieu of a fine.

SECTION 9. Subsection 30 (1) of the Act now reads as follows:

(1) Prosecutions under section 29 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 29 (1) shall be instituted in the Provincial Court (Family Division).

The amendment permits prosecutions under subsection 29 (1) to be instituted in the Unified Family Court where such a court has been established.

SECTION 10. This amendment is complementary to the amendment to section 48 of the Act. (See section 12 of the Bill).

SECTION 11. The purpose of the amendment is to ensure that where a college of applied arts and technology requires a certain course of study as a prerequisite, a student may attend another secondary school other than the one at which he is qualified to be a resident pupil in order to obtain credit for that course where the course is not offered at his own school.

SECTION 12. The new subsection (6) requires boards to charge gross fees to all pupils on student visas except participants in certain educational exchange programs and pupils who enrol prior to the 1st day of July, 1982.

SECTION 13. The amendment makes it clear that an area that is deemed a district municipality ceases to be so deemed if it becomes part of a municipality.

SECTION 14.—Subsection 1. The amendment permits the cancellation, reduction or refund of taxes on lands in territory without municipal organization in the same way as by the council of an organized municipality and makes subsection 67 (12) of the Act apply in respect of such territory.

Subsection 2. The amendment will permit the establishment of a limitation on the increase or decrease, as the case may be, in taxes in territory without municipal organization that is deemed a district municipality, or in territory without municipal organization attached to a municipality, where the increase or decrease is caused by re-assessment.

SECTION 15.—Subsection 1. Complementary to the changes set out in subsection (3) of this section of the Bill.

Subsection 2. Clause 54 (1) (c) of the Act now reads as follows:

54.—(1) *The Lieutenant Governor in Council may, by regulation,*

(c) dissolve a board of a school division or school section.

The amendment makes it clear that the dissolution of the board of a school section under this section applies only in the case where the school section is to be included in a school division. The present provisions of sections 68 and 70 of the Act apply to other dissolutions.

Subsection 3. The amendment simplifies the process for changing the name of a board.

SECTION 16.—Subsection 1. Subsection 59 (23) of the Act now reads as follows:

(23) *The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school electors, as the case may be, in the municipality, provided that, where it is determined under this section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate school electors in a municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school electors, as the case may be, in each of such areas.*

The amendment restricts the power of a municipal council to pass a by-law that divides a municipality into areas for the purpose of electing members to a divisional board in a case where the board has so requested.

Subsection 2. The requirements in this subsection are now dealt with in subsections 36 (3) and (4) of the *Municipal Elections Act*.

SECTION 17. This amendment is consistent with the repeal of subsection 59 (34) of the Act (see section 16 of the Bill).

SECTION 18. The amendment permits the making of a regulation to detach a portion from a district school area without adding the portion detached to or forming it into another district school area.

SECTION 19. Subsection 64 (5) is re-enacted to delete the reference to a two year term of office and to relate the term of office to the time of the holding of regular elections, under the *Municipal Elections Act*.

SECTION 20.—Subsection 1. The amendment to subsection 65 (1) of the Act is necessary to clarify that a first election of a district school area board may take place as set out in subsection 65 (4).

Subsection 2. Subsection 65 (4) of the Act is amended to make it clear that subsection 65 (4) applies to first elections and subsection 64 (5) applies to subsequent elections of a district school area board.

Subsection 3. This amendment is consistent with the amendment to section 100 of the Act (see section 33 of the Bill).

SECTION 21. Subsection 66 (1) of the Act now reads as follows:

- (1) Notwithstanding section 65, before the 1st day of July in an election year, the board of a district school area may, by resolution approved at a meeting of the electors, determine that the board shall conduct the elections in the same manner as for the members of a divisional board of education, except that the members shall be elected by a general vote of the electors of the district school area and for such purposes subsection 53 (1) applies with necessary modifications to the district area board and to the officers of such board.*

The amendment corrects a reference to a district school area board referred to in subsection 62 (1) of the Act and makes it clear that the electors referred to in the subsection are public school electors.

SECTION 22. The new section 66a permits regulations to be made providing for the nomination of candidates, prescribing the manner of holding an election, the number of members to be elected and the areas each member is to represent where a district school area is formed under clause 62 (2) (b) of the Act.

SECTION 23. Subsections 68 (1), (2) and (3) of the Act now read as follows:

- (1) Where the number of public school pupils of compulsory school age residing in a district school area is fewer than ten and the board has ceased to operate a school, the Minister may declare the district school area inactive as of the 31st day of December in any year.*
- (2) When a district school area is declared to be inactive, the board shall liquidate its assets, settle its accounts and have them audited, and forward to the Ministry the audited statement of accounts, the auditor's report and the balance of the funds for deposit in the Consolidated Revenue Fund.*
- (3) If the Minister is satisfied that the board has carried out its duties under subsection (2) he shall dissolve the board and the district school area shall cease to exist as of the date that the district school area was declared inactive under subsection (1).*

The amendment to subsection 68 (1) makes it clear that it is the "board" that the Minister declares to be inactive in the circumstances described in the subsection and not the "area". The amendments to subsections 68 (2) and (3) are complementary thereto.

SECTION 24. Clause 69 (2) (a) of the Act now reads as follows:

- (2) Where a secondary school district is established under subsection (1), the Lieutenant Governor in Council may make regulations providing for,*
- (a) the formation and composition of a secondary school board.*

The amendment provides a method for dissolving a board established under section 69 of the Act.

SECTION 25. The new subsection 74 (8) of the Act clarifies the authority of a divisional board to pay or to continue to pay an allowance to members of an advisory committee on schools for trainable retarded pupils who are not members of the board whether the board continues that committee and establishes a special education advisory committee or decides to expand the advisory committee on schools for trainable retarded pupils in the manner prescribed in subsection 182 (7). Members of a special education advisory committee will not be eligible to receive an allowance other than under subsection 74 (8).

Consistent with the amendment to subsection 167 (1) the size of the allowance is no longer regulated and is determined by the board in office from time to time.

SECTION 26. The amendment corrects a reference and moves the commencement date of a new combined separate school board forward one month to conform with the provisions of the *Municipal Elections Act*.

SECTION 27.—Subsection 1. The words deleted are redundant since the term of office of members of an urban separate school board are now set out in the *Municipal Elections Act*.

Subsection 2. The new subsection 90 (2a) of the Act provides for the term of office of trustees elected at the formation of an urban Roman Catholic separate school board under section 83 of the Act and provides that elections subsequent to those at the time of the formation are to be held under the *Municipal Elections Act*.

SECTION 28. The amendments are complementary to the amendment to subsection 90 (1) of the Act. (See section 27 of the Bill).

SECTION 29. The amendment makes the wording consistent with that of subclause 2 (a) (iv) of the *Municipal Elections Act*, thus ensuring that such Act governs the election of trustees of urban separate school boards.

SECTION 30. The clause, as amended, removes an inconsistency with the *Municipal Elections Act*.

A person who becomes eighteen years of age between the date of enumeration and polling day may now be enumerated as a separate school elector under this section as if he was eighteen years of age on enumeration day. Heretofore, such a person could be enumerated only as a public school elector or if he was a separate school supporter as a separate school elector.

SECTION 31. Subsections 97 (1) and (3) are re-enacted to remove the reference to a two year term of office and relate the term of office of the trustees to the time of the holding of regular elections under the *Municipal Elections Act*.

SECTION 32.—Subsection 1. Subclause 98 (1) (a) (ii) of the Act now reads as follows:

(a) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for,

(ii) the selection of a new school site.

The re-enactment changes the purpose of the special meeting from the selection of a new school site to the approval of a site selected by the board for a new

school. This allows the original selection to be done by the board but retains the right of the supporters to approve or not approve such selection. It also limits such approval to the selection of the site of a new school rather than to the selection of any school site that includes a site that might be used for a residence, office, parking area, garden or other purpose.

Subsection 2. The proposed new subsection re-enacts a provision that was contained in subsection 36 (1) of *The Separate Schools Act* but was omitted in the consolidation of that Act in *The Education Act, 1974*. The inclusion of this subsection is necessary to make it clear that the approval of the supporters of the site selected for a new school is necessary before the board can proceed to acquire the site.

This amendment is complementary to section 48 of the Bill.

SECTION 33. The purpose of the amendment is to clarify the voting procedures at the election of a rural separate school board.

SECTION 34. Subsection 103 (1) is re-enacted to clarify the election procedures and the number of trustees to be elected where a new combined Roman Catholic separate school zone is formed or an existing combined Roman Catholic separate school zone is altered in either an election year or an off election year.

SECTION 35. Subsections 111 (2) and (3) of the Act now read as follows:

- (2) *A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city is a corporation by the name of "The County Roman Catholic Separate School Board" (inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister).*
- (3) *A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of "The Roman Catholic Separate School Board" (inserting the name of the area designated by the regulations).*

The amendment makes the wording of subsection 111 (3) of the Act consistent with the wording of subsection 111 (2) of the Act.

SECTION 36.—Subsection 1. The amendment permits the cancellation, reduction or refund of taxes on lands in territory without municipal organization in the same way as may be done by the council of an organized municipality and makes subsection 67 (12) apply in respect of such territory.

Complementary to the amendment to subsection 53 (1) of the Act (see section 14 of the Bill).

Subsection 2. The amendment will permit the establishment of a limitation on the increase or decrease, as the case may be, in taxes in territory without municipal organization that is deemed a district municipality under subsection (1), where the increase or decrease is caused by re-assessment.

SECTION 37. Subsection 113 (19) of the Act now reads as follows:

- (19) *The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school electors of such board in the municipality, provided that, where the number of trustees to be elected to the board by the separate school electors in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or*

more areas and provide for the election of one or more of such trustees by the separate school electors in each of such areas.

The amendment restricts the power of a municipal council to pass a by-law that divides a municipality into areas for the purpose of electing members to a county or district combined separate school board in a case where the board has so requested.

SECTION 38. This repeal is consistent with the repeal of subsection 59 (34) of the Act (see section 16 of the Bill).

SECTION 39. The amendment makes it clear that a board is required to carry out those duties imposed upon it by the Minister under section 8 of the Act.

SECTION 40.—Subsection 1. The amendment makes it clear that a board may appoint persons who are not members of the board to certain committees.

Subsection 2. Complementary to the amendment to subsection 8 (1) of the Act. (see subsection 3 (5) of the Bill).

SECTION 41. This amendment is complementary to the amendment to subsection 167 (1) of the Act (see section 47 of the Bill). The amount of an allowance, if any, payable to a member of an advisory committee for a vocational course is no longer related to the amount determined under subsection 167 (1) but may be determined from time to time by the board in office.

SECTION 42. The amendment ensures that when a sick leave gratuity is paid, the number of days used to calculate the amount of the gratuity are written off and not available for transfer or reinstatement under subsection 158 (2) of the Act.

SECTION 43. Section 164 of the Act now reads as follows:

164. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada.

The amendment makes it clear that the school in which instruction is provided under this section may be on an Indian reserve.

SECTION 44.—Subsection 1. Subsection 165 (1) of the Act now reads as follows:

(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be calculated in accordance with the regulations.

Subsection 165 (1) is re-enacted to add permission for a board to make an agreement with a band, the council of the band or education authority where such band, the council of the band or education authority has been authorized by Canada to provide education for Indians.

The new subsection (1a) adds a new authority permitting a board to enter into an agreement to provide instruction and services on an Indian reserve.

Subsection 2. Subsection 165 (4) of the Act now reads as follows:

(4) Where a board has entered into one or more agreements under this section, the council of the Indian band, or the councils of the Indian bands, to which the Indian pupils, or a majority of the Indian pupils, who are, pursuant to the agreement or agreements, enrolled in the schools operated by the board, belong, may, subject to subsection (5), name one person to represent on the board the interests of the Indian pupils and, where a person is so named, the board shall, subject to subsection (6), appoint the person a member of the board, and the member so appointed shall be deemed to be an elected member of the board, except that,

(a) where the agreement or agreements under this section are in respect of secondary school pupils only, the member so appointed is a trustee for secondary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect public schools exclusively; and

(b) where the agreement or agreements under this section are in respect of elementary school pupils only, the member so appointed is a trustee for elementary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect secondary schools exclusively.

The deletion of the word "Indian" is consistent with the amendments in section 1 of the Bill.

Subsection 3. Subsection 165 (5) of the Act now reads as follows:

(5) Where the number of Indian pupils enrolled in the schools under the jurisdiction of a divisional board or a county or district combined separate school board pursuant to one or more agreements made under this section exceeds 25 per cent of the average daily enrolment in the schools of the board, two persons may be named under subsection (4), and subsection (4) applies with necessary modifications in respect of such persons.

The amendment permits a second Indian representative to be appointed to a district school area board and to a rural separate school board where the number of Indian pupils enrolled exceeds 25 per cent of the average daily enrolment of the board.

Subsection 4. The new subsection (6a) provides for the counting of Indians enrolled in schools on a reserve where a board provides the instruction, when determining Indian representation on a board.

SECTION 45. The new section 165a enables school boards to provide basic education programs for adults by agreements with colleges of applied arts and technology. Such programs may be in lieu of or in addition to those provided directly by boards.

SECTION 46.—Subsections 1 and 2. Subsection 166 (1) of the Act now reads as follows:

(1) A board may provide for,

(a) a resident pupil of the board who is enrolled in a school that the board operates or in a school operated by another board to which the board pays fees in respect of such pupil;

(b) a pupil in respect of whom the Minister pays the cost of education under the regulations; and

(c) a child over two years of age who may, under the regulations, be admitted to a program for hearing-handicapped children,

transportation to and from the school that the pupil attends and to and from an activity that is part of the program of such school.

The amendment to subsection 166 (1) and the enactment of subsection 166 (1a) has the effect of removing any doubt that a board may transport each of the pupils enrolled in its schools to and from an activity that is part of the program in the schools. It also enables a board that provides transportation of pupils to and from an activity to claim a grant in respect of the costs of such transportation regardless of the fact that some of those pupils may be enrolled in the schools of the board under an agreement with another board for their education under which fees are paid.

Subsection 3. The amendment makes provision for reimbursement of a parent for the cost of board, lodging and transportation where a pupil resides in a residence in a regional municipality, except The Regional Municipality of Sudbury, that is forty-eight kilometres or more from the school that he attends.

SECTION 47. Commencing with school boards elected in the year 1982 school board members and trustees and chairmen may receive an allowance as determined by the outgoing board. The allowances shall be determined for and be effective in the period the members of the new board are in office but may be decreased by the new board.

Where a board that is to be replaced at the regular election does not fix a new allowance, the existing allowances payable to members and chairman of the board shall continue until they are altered under the provisions of this section.

A newly formed board may determine its own first allowance.

SECTION 48.—Subsection 1. Subsection 171 (1) of the Act now reads as follows:

(1) Subject to the provisions of Part IV as to the selection of a site by a rural separate school board, every board may acquire, by purchase or lease, or may expropriate, a school site that is within its area of jurisdiction.

This amendment is complementary to the amendments to section 98 of the Act (see section 32 of the Bill) and clarifies the provisions to which this subsection is subject.

Subsection 2. This is consistent with the amendment to section 173 of the Act as set out in section 49 of the Bill.

SECTION 49.—Subsection 1. Subsections 173 (1) and (2) are rewritten for clarification. Lands acquired for a natural science program are a school site as defined in paragraph 53 of subsection 1 (1) of the Act. Section 171 authorizes school boards to acquire school sites without approval of the Minister where the sites are within the areas of jurisdiction of boards but requires approval of the Minister where a school site is situate outside the jurisdiction. As previously written, subsections 173 (1) and (2) appeared to be at variance with the concepts in section 171 where the land for a natural science program was situate outside the area of jurisdiction of the acquiring board.

The new subsection (1) will permit the requirements of section 171 to prevail where the school site is acquired for natural science programs under that section subject to the requirement of approval where construction of facilities is required.

The new subsection (1a) ensures that there is no interference with the constitutional rights of separate school boards.

The new subsection (1b) extends the authority provided in section 171 for boards to acquire a school site outside their area of jurisdiction where it is for the purpose of a natural science program but such authority is made subject to the approval of the Minister as to the acquisition and in respect of the construction of facilities.

Subsection (2) clarifies the previous authority of boards to share existing lands and facilities for conducting a natural science program and makes the principle of Ministerial approval apply where lands for such purpose are acquired outside the areas of jurisdiction of the boards who enter the agreement. Approval of the sharing agreement is required as is approval for construction.

Subsection 2. The amendment to subsection 173 (3) of the Act is complementary to the changes in subsections (1) (1a), (1b) and (2).

SECTION 50. This amendment is complementary to the amendment to subsection 74 (8) of the Act (see section 25 of the Bill).

SECTION 51. The subsection is revised to make clear that meetings of a board are always open to the public and that meetings of a committee, including a committee of the whole board, may be closed to the public only at such times when the subject-matter being discussed comes within one or more of the subject areas set out in the new subsection (1a).

SECTION 52. The declaration is amended to make it consistent with the declaration that is required to be given under the *Municipal Act*.

SECTION 53. The amendment makes it clear that the fact that a person is not entitled to vote at the election of a member of the board to be elected from a particular municipality or locality or combination thereof in the area of jurisdiction of the board does not disqualify the person to be elected as a member of the board in such municipality, locality or combination thereof.

SECTION 54. Clause 198 (2) (b) of the Act now reads as follows:

(2) *Subject to section 202, where, in respect of a board of education, the office of a member elected by separate school electors becomes vacant from any cause before the expiration of the term for which he was elected, and,*

(b) there are no remaining members elected by separate school electors or the remaining members elected by separate school electors are not a majority of the members elected by separate school electors, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils below the third year of the Intermediate Division who resided in the school division, as certified by the appropriate supervisory officer,

The amendment implements current policy of the Ministry in respect of terminology for designating grade levels.

SECTION 55. Under the *Municipal Elections Act* no by-election can be conducted to fill a vacancy after the 31st day of March in an election year. The new provision is similar to that in subsection 48 (2) of the *Municipal Act* and is necessary because no other provision exists under which a board could continue to operate because the number of members remaining in office is less than a quorum.

SECTION 56. Subsection 207 (1) of the Act now reads as follows:

- (1) *Every board shall appoint an auditor who shall be a person licensed by the Ministry of Intergovernmental Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the board.*

The amendment excludes a board established on tax-exempt land from the requirement that its auditor be licensed as a municipal auditor under the *Municipal Affairs Act*.

The amendment also removes the requirement of a vote of two-thirds of the members of a board to remove an auditor, thus making the subsection consistent with the provisions of the *Municipal Act*.

SECTION 57. The purpose of the amendment is to ensure that no rateable property is exempt from school taxes.

SECTION 58. Subsection 216 (2) of the Act now reads as follows:

- (2) *The council of a municipality shall annually account for all moneys collected for school purposes, and any sum collected in excess of the amount required by a board to be raised by the municipality for such purposes shall, except where otherwise provided in the Act under which the sum is collected, be retained by the municipality and applied to reduce the amount that the municipality is required by such board to raise for such purposes in the year next following.*

The purpose of the amendment is to make it clear that subsection 167 (2) of the *Municipal Act* does not apply to any moneys collected by a municipality for school purposes that are surplus to the requirements of the school board for which it was collected.

The result of this amendment is to make subsection 216 (2) consistent with subsection 34 (3) of the *Assessment Act*, which section requires that taxes collected from assessment omitted from the roll by error and subsequently picked up, or from supplementary or new assessment that is subsequently added to the roll, are to be turned over to the board by the year end. The amendment also requires the municipality to hold for school purposes for the following year any moneys collected in excess of the amount required by the board.

SECTION 59. The amendment makes it clear that a person teaching on a letter of permission is required to perform the same duties as a qualified teacher.

SECTION 60. The amendment requires the chief executive officer of a board to submit an annual report to the board and to the Minister.

SECTION 61. The amendment gives provincial supervisory officers access to schools and board records, where the Minister so requires.

SECTION 62. Subsection 258 (2) of the Act now reads as follows:

- (2) *Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board referred to in subsection (1) that a number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following school year.*

The purpose of the amendment is to include the first school day in September in the time period referred to.

SECTION 63. Subsection 261 (2) of the Act now reads as follows:

- (2) *Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of French-speaking pupils resident in the secondary school district have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day in the following school year.*

The purpose of the amendment is to include the first school day in September in the time period referred to.

SECTION 64.—Subsection 1. The amendment makes an elected member of a language advisory committee subject to the same disqualifications as a member of the board.

Subsection 2. Subsection 262 (4) of the Act now reads as follows:

- (4) *A member of a committee shall hold office during the term of the members of the board and until a new board is organized.*

The amendment extends the term of office of a member of a French-language advisory committee until his successor is appointed or elected.

SECTION 65. The new subsection (2) requires the new board to make its appointments to the committee by the date of the election referred to in subsection (1).

SECTION 66. The amendment provides for the orderly resignations of the elected members of a language advisory committee and ensures that the number of members of the committee shall never be less than a quorum.

SECTION 67. The subsection is re-enacted to clarify the circumstances in which members of a French-language advisory committee shall receive an allowance and removes the regulation of the amount of such allowance consistent with the principle that the allowance should be determined by the board in office from time to time.

SECTION 68. The subsection as re-enacted permits members to be appointed for a term of one, two or three years as determined by the Lieutenant Governor in Council. The purpose of the amendment is to permit flexibility and continuity in the making of appointments by staggering the terms of office of the members.

Subsection 275 (2) of the Act now reads as follows:

- (2) *Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.*

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs:

2a. “band” and “council of the band” have the same meaning as in the *Indian Act* (Canada);

s. 1 (1),
amended
R.S.C. 1970,
c. I-6

10a. “credit” means recognition granted to a pupil by a principal as *prima facie* evidence that the pupil has successfully completed a quantity of work that,

i. has been specified by the principal in accordance with the requirements of the Minister, and

ii. is acceptable to the Minister as partial fulfilment of the requirements for the Secondary School Graduation Diploma or the Secondary School Honour Graduation Diploma, as the case may be;

19a. “education authority” means a corporation that is incorporated by two or more bands or councils of bands for the purpose of providing for the educational needs of the members of such bands;

R.S.C. 1970,
c. I-6

23a. "Indian" has the same meaning as in the *Indian Act* (Canada).

s. 1 (1),
par. 66,
amended

(2) Paragraph 66 of the said subsection 1 (1) is amended by inserting after "qualification" in the second line "or a letter of standing".

s. 1,
amended

(3) Section 1 of the said Act is amended by adding thereto the following subsection:

Existing
school
arrangements
continued

(5) Until altered under the authority of this or any other Act, all school jurisdictions and boards including the names of the boards continue as they now exist and all members of boards duly elected and all officers duly appointed continue in office, and all agreements, contracts, obligations, assessments and tax bills heretofore duly made in relation to elementary and secondary schools and existing on the 1st day of August, 1981 continue subject to the provisions of this Act.

s. 2,
amended

2. Section 2 of the said Act is amended by adding thereto the following subsections:

Delegation
of powers
and duties

(4) The Minister may in writing authorize the Deputy Minister or any other officer or employee in the Ministry to exercise any power or perform any duty that is granted to or vested in the Minister under this or any other Act.

Limitations

(5) The Minister may in writing limit an authorization made under subsection (4) in such manner as he considers advisable.

Application of
R.S.O. 1980,
c. 147, s. 6

(6) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (4).

s. 8 (1) (i),
re-enacted

3.—(1) Clause 8 (1) (i) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 539

(i) prescribe the conditions under which and the terms upon which pupils of boards shall be deemed to be employees for the purpose of coverage under the *Workmen's Compensation Act*, deem pupils to be employees for such purpose and require a board to reimburse Ontario for payments made by Ontario under that Act in respect of a pupil of the board deemed to be an employee of Ontario by the Minister.

s. 8 (1) (m),
amended

(2) Clause 8 (1) (m) of the said Act is amended by striking out "interim, temporary, permanent, special or other" in the first and second lines.

(3) Clause 8 (1) (*p*) of the said Act is amended by striking out “and supervisory officers” in the second line and inserting in lieu thereof “supervisory officers, attendance counsellors and native counsellors and grant certificates in respect of the successful completion of such courses”. s. 8 (1) (*p*),
amended

(4) Clause 8 (1) (*r*) of the said Act is amended by adding at the end thereof “and the granting of bursaries to teachers”. s. 8 (1) (*r*),
amended

(5) Subsection 8 (1) of the said Act is amended by adding thereto the following clause: s. 8 (1),
amended

(z) in respect of schools under the jurisdiction of a board, issue guidelines respecting the closing of schools.

4.—(1) Paragraph 11 of subsection 10 (1) of the said Act is amended by striking out “permanent, temporary, interim, special and other” in the second line. s. 10 (1),
par. 11,
amended

(2) The said subsection 10 (1) is amended by adding thereto the following paragraph: s. 10 (1),
amended

11*a*. providing for the issuing of teacher’s qualifications record cards and governing the professional qualifications that may be recorded on such record cards. teacher’s
quali-
fications
record cards

(3) Paragraph 24 of the said subsection 10 (1) is amended by striking out “bursars, matrons” in the fourth line and inserting in lieu thereof “residence counsellors”. s. 10 (1),
par. 24,
amended

(4) The said subsection 10 (1) is further amended by adding thereto the following paragraph: s. 10 (1),
amended

33. Notwithstanding paragraph 26 of subsection 150 (1), prohibiting or regulating and controlling any program or activity of a board that is or may be in competition with any business or occupation in the private sector and providing that such regulations have general application or application to a particular board. competition
with
private
sector

(5) Clause 10 (8) (*b*) of the said Act is amended by striking out “and letters of standing” in the second and third lines and inserting in lieu thereof “letters of standing and Ontario Teacher’s Qualifications Record Cards”. s. 10 (8) (*b*),
amended

5.—(1) Subsection 11 (2) of the said Act is amended by striking out “as defined in that Act” in the fifth line. s. 11 (2),
amended

(2) Section 11 of the said Act is amended by adding thereto the following subsection: s. 11,
amended

Non-Indian
pupils at
Indian
schools

(2a) The Crown in right of Ontario, represented by the Minister, may enter into an agreement with a band, the council of the band or an education authority where such band, council of the band or education authority is authorized by the Crown in right of Canada to provide education for Indians, for the admission of pupils who are not Indians to a school operated by the band, council of the band or education authority.

s. 12 (6) (g),
amended

6. Clause 12 (6) (g) of the said Act is amended by striking out "business" in the second line and inserting in lieu thereof "business administrator".

s. 25 (1),
amended

7. Subsection 25 (1) of the said Act is amended by striking out "without a warrant" in the eighth line.

s. 29 (2),
amended

8. Subsection 29 (2) of the said Act is amended by inserting after "may" in the first line "in addition to or".

s. 30 (1),
amended

9. Subsection 30 (1) of the said Act is amended by adding at the end thereof "or the Unified Family Court".

s. 31 (2),
amended

10. Subsection 31 (2) of the said Act is amended by inserting after "Part" in the first line "except subsection 48 (6)".

s. 40 (1) (c),
amended

11. Clause 40 (1) (c) of the said Act is amended by inserting after "course" in the seventh line "or college of applied arts and technology".

s. 48,
amended

12. Section 48 of the said Act is amended by adding thereto the following subsection:

Fees for
pupils

1976-77,
c. 52 (Can.)

(6) Notwithstanding any other provision of this Act, where a board admits to a school that it operates, a person who is in Canada as a visitor or as a student under the *Immigration Act*, 1976 (Canada), except,

(a) a participant in an educational exchange program under which a pupil of the board attends without fee a school outside Canada; or

(b) a pupil who enrolls in an elementary school or a secondary school prior to the 1st day of July, 1982,

the board shall charge the person the maximum fee calculated in accordance with the regulations.

s. 52 (3),
amended

13. Subsection 52 (3) of the said Act is amended by adding at the end thereof "unless and until it becomes or is included in a municipality".

14.—(1) Subsection 53 (1) of the said Act is amended by inserting after “collecting” in the seventh line “cancelling, reducing or refunding” and by striking out “11” in the thirteenth line and inserting in lieu thereof “12”. s. 53 (1),
amended

(2) Section 53 of the said Act is amended by adding thereto the following subsection: s. 53,
amended

(2a) Section 362 of the *Municipal Act* applies to territory without municipal organization that is deemed a district municipality under this Act, and the divisional board has the powers of a municipal council under the said section 362 in respect of any such territory that is not attached to a municipality for school purposes, and the council of the municipality to which any such territory is attached for public school purposes and for secondary school purposes under subsection (2) has the powers of a municipal council under the said section 362 in respect of the territory so attached. Application of
R.S.O. 1980,
c. 302, s. 362

15.—(1) Clause 54 (1) (b) of the said Act is repealed. s. 54 (1) (b),
repealed

(2) Clause 54 (1) (c) of the said Act is amended by striking out “school section” in the first and second lines and inserting in lieu thereof “of a school section that is included in a school division”. s. 54 (1) (c),
amended

(3) Subsection 54 (6) of the said Act is amended by striking out “(inserting the name assigned by the regulations)” in the seventh and eighth lines and inserting in lieu thereof “(inserting the name selected by the board and approved by the Minister)”. s. 54 (6),
amended

16.—(1) Subsection 59 (23) of the said Act is amended by inserting after “may” in the eighth line “where so requested by the divisional board”. s. 59 (23),
amended

(2) Subsection 59 (34) of the said Act is repealed. s. 59 (34),
repealed

17. Subsection 61 (2) of the said Act is repealed and the following substituted therefor: s. 61 (2),
re-enacted

(2) Subsection 59 (32) applies with necessary modifications to the nomination and election of candidates for members of a board of education. Qualifications
for nominators
of candidates

18. Subsection 62 (2) of the said Act is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d), and by adding thereto the following clause: s. 62 (2),
amended

(e) detach a portion thereof from a district school area.

s. 64 (5),
re-enacted

- 19.** Subsection 64 (5) of the said Act is repealed and the following substituted therefor:

Election
year end
term of office
R.S.O. 1980,
c. 308

(5) The election of members of the board of a district school area that is not an improvement district shall be held in each year in which a regular election is held under the *Municipal Elections Act* and the members shall hold office until the next regular election is held under that Act and their successors are elected under this Act and the new board is organized except that,

(a) where a new district school area is formed to take effect on the 1st day of January in a year that is not a year of a regular election under the *Municipal Elections Act*, the first members of such board shall be elected in the year preceding such 1st day of January and shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized; or

(b) where the boundaries of a district school area are altered to take effect on the 1st day of January in a year that is not a year in which a regular election is held under the *Municipal Elections Act*, a new district school area board shall be elected in the year preceding such 1st day of January and the members so elected shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized.

s. 65 (1),
amended

- 20.—**(1) Subsection 65 (1) of the said Act is amended by inserting after “66” in the first line “and subject to subsection (4),”.

s. 65 (4),
re-enacted

- (2) Subsection 65 (4) of the said Act is repealed and the following substituted therefor:

First
meeting

(4) Notwithstanding subsection 64 (5), the first meeting for the election of a board of a district school area formed or altered under subsection 62 (2) shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting and the persons so elected shall hold office until the date the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized.

R.S.O. 1980,
c. 308

s. 65 (8),
amended

- (3) Subsection 65 (8) of the said Act is amended by inserting after “(9)” in the first line “(10a)”.

s. 66 (1),
amended

- 21.** Subsection 66 (1) of the said Act is amended by,

- (a) inserting after “the” in the third line “public school”;
- (b) inserting after “the” where it occurs the first time in the seventh line “public school”; and
- (c) inserting after “district” in the ninth line “school”.

22. The said Act is amended by adding thereto the following section. s. 66a,
enacted

66a.—(1) Notwithstanding subsections 65 (3) and (8) and section 66, where a district school area is formed under clause 62 (2) Elections
(b), the Lieutenant Governor in Council may make regulations,

- (a) determining the number of members to be elected to the board of the district school area;
- (b) determining the areas each member referred to in clause (a) shall represent;
- (c) providing for the nomination of candidates to be elected; and
- (d) prescribing the manner in which the election of the members shall be conducted,

and the election of the members shall be in accordance with such regulations.

(2) No election under this section is invalid by reason of non-compliance with the provisions of the regulations made under subsection (1) or by reason of any mistake or irregularity if it appears that the election was conducted in accordance with the principles laid down in the regulations and that the non-compliance, mistake or irregularity did not affect the result of the election. Validity
of election

23.—(1) Subsection 68 (1) of the said Act is amended by inserting after “area” in the fourth line “board”. s. 68 (1),
amended

(2) Subsection 68 (2) of the said Act is amended by inserting after “area” in the first line “board”. s. 68 (2),
amended

(3) Subsection 68 (3) of the said Act is amended by inserting after “area” in the fourth line “board”. s. 68 (3),
amended

24. Clause 69 (2) (a) of the said Act is amended by adding at the end thereof “and for the dissolution thereof”. s. 69 (2)(a),
amended

25. Subsection 74 (8) of the said Act is repealed and the following substituted therefor: s. 74 (8),
re-enacted

Allowance

(8) The divisional board may pay an allowance to each member of the committee who is not a member of the divisional board and where the divisional board satisfies the requirements for a special education advisory committee under subsection 182 (7), the board may pay an allowance to each member of the special education advisory committee who is a member of the advisory committee on schools for trainable retarded pupils.

s. 87 (1),
amended

26. Subsection 87 (1) of the said Act is amended by striking out "1st day of January of the following year" in the fifteenth line and inserting in lieu thereof "1st day of December of the same year".

s. 90 (1),
amended

27.—(1) Subsection 90 (1) of the said Act is amended by striking out "for a term of two years" in the third line.

s. 90,
amended

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

Term of
office of
first trustees
R.S.O. 1980,
c. 308

(2a) The trustees who are elected at the first election of an urban separate school board shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected and the new board is organized and sections 93, 94, 95 and 96 apply with necessary modifications to the elections of trustees of the urban separate school board held after the first elections of trustees.

s. 91 (1),
amended

28.—(1) Subsection 91 (1) of the said Act is amended by striking out "for a term of two years" in the fourth line.

s. 91 (2),
amended

(2) Subsection 91 (2) of the said Act is amended by striking out "for a term of two years" in the fourth line.

s. 93 (1),
amended

29. Subsection 93 (1) of the said Act is amended by striking out "in the same manner as municipal elections" in the second and third lines and inserting in lieu thereof "by the same officers and in the same manner as elections of members of the council of a municipality".

s. 95 (b),
re-enacted

30. Clause 95 (b) of the said Act is repealed and the following substituted therefor:

(b) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years; and

s. 97 (1),
re-enacted

31.—(1) Subsection 97 (1) of the said Act is repealed and the following substituted therefor:

Trustees
term of office
R.S.O. 1980,
c. 308

(1) The board of a rural separate school shall consist of three trustees who, subject to subsection (3), shall be elected in each year in which a regular election is held under the *Municipal Elec-*

tions Act and shall hold office until the date the next regular election is held under that Act and their successors are elected under this Act and the new board is organized.

- (2) Subsection 97 (3) of the said Act is repealed and the following substituted therefor: s. 97 (3),
re-enacted

(3) Where the first election of a newly established rural separate school board is held in a year in which no regular election is held under the *Municipal Elections Act*, the trustees so elected shall hold office until the date upon which the next regular election is held under that Act and their successors are elected under this Act and the new board is organized. Idem
R.S.O. 1980,
c. 308

- 32.**—(1) Subclause 98 (1) (a) (ii) of the said Act is repealed and the following substituted therefor: s. 98 (1) (a),
(ii),
re-enacted

(ii) the approval of a site selected by the board for a new school.

- (2) Section 98 of the said Act is amended by adding thereto the following subsection: s. 98,
amended

(3) No site for a new school shall be acquired by a rural separate school board without approval of the site by the majority of the supporters of the rural separate school who are present at an annual or a special meeting of the board. Approval
of new
school site

- 33.** Section 100 of the said Act is amended by adding thereto the following subsection: s. 100,
amended

(10a) A voter is entitled to as many votes as there are trustees to be elected, but may not give more than one vote to any one candidate. Number
of votes

- 34.** Subsection 103 (1) of the said Act is repealed and the following substituted therefor: s. 103 (1),
re-enacted

(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of December following the election of trustees of the combined separate school zone and, subject to the number of trustees being determined under subsection (5), five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone, Trustees

(a) as provided in section 100, where the combined separate school zone is formed, or where another separate school zone is added to or detached from a combined separate school zone in the year next following the year

R.S.O. 1980,
c. 308

in which a regular election was held under the *Municipal Elections Act*, in which case the provisions of section 97 apply; or

- (b) as provided in section 93, where the combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone in the year in which a regular election is to be held under the *Municipal Elections Act*.

s. 111 (3),
amended

- 35.** Subsection 111 (3) of the said Act is amended by striking out "The Roman Catholic Separate School Board" in the third and fourth lines and inserting in lieu thereof "The District Roman Catholic Separate School Board".

s. 112 (2),
amended

- 36.—**(1) Subsection 112 (2) of the said Act is amended by inserting after "collecting" in the sixth line "cancelling, reducing or refunding" and by striking out "11" in the twelfth line and inserting in lieu thereof "12".

s. 112,
amended

- (2) Section 112 of the said Act is amended by adding thereto the following subsection:

Application of
R.S.O. 1980,
c. 302, s. 362

- (2a) Section 362 of the *Municipal Act* applies to territory without municipal organization that is deemed a district municipality under subsection (1), and the district combined separate school board has the powers of a municipal council under the said section 362 in respect of any such territory.

s. 113 (19),
amended

- 37.** Subsection 113 (19) of the said Act is amended by inserting after "may" in the seventh line "where so requested by the board".

s. 115 (3),
repealed

- 38.** Subsection 115 (3) of the said Act is repealed.

s. 149,
amended

- 39.** Section 149 of the said Act is amended by adding thereto the following paragraph:

requirements

18. do anything that a board is required by the Minister to do under subsection 8 (1).

s. 150 (1),
par. 1,
re-enacted

- 40.—**(1) Paragraph 1 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

committees

1. establish committees composed of members of the board to make recommendations to the board in respect of education, finance, personnel and property;

1a. establish committees that may include persons who are idem
not members of the board in respect of matters other
than those referred to in paragraph 1.

(2) Paragraph 6 of the said subsection 150 (1) is amended by s. 150 (1),
par. 6,
amended
adding at the end thereof "and close schools in accordance
with policies established by the board from guidelines issued
by the Minister".

41. Subsection 153 (2) of the said Act is repealed and the following s. 153 (2),
re-enacted
substituted therefor:

(2) A secondary school board may pay to each person Allowance
appointed under subsection (1) who is not a member of the
board such allowance as the board may determine for each
month for which he is appointed.

42. Section 158 of the said Act is amended by adding thereto the s. 158,
amended
following subsection:

(1a) Where a sick leave gratuity is paid upon termination of Idem
employment, the number of days used to calculate the amount of
the gratuity ceases to stand to the credit of the employee and is
not available for transfer or reinstatement of credits under sub-
section (2).

43. Section 164 of the said Act is amended by inserting after "or" in the s. 164,
amended
seventh line "held".

44.—(1) Subsection 165 (1) of the said Act is repealed and the follow- s. 165 (1),
re-enacted
ing substituted therefor:

(1) A board may enter into an agreement with, Agreements
re education
of Indian
pupils

(a) the Crown in right of Canada; or

(b) a band or the council of the band or an education
authority where such band, the council of the band or
education authority is authorized by the Crown in right
of Canada to provide education for Indians,

to provide for Indian pupils, for the period specified in the
agreement, accommodation, instruction and special services in
the schools of the board, and such agreement shall provide for
the payment by the Crown in right of Canada, the band, the
council of the band or the education authority, as the case may
be, of fees calculated in accordance with the regulation govern-
ing the fees payable by Canada.

(1a) A board may enter into an agreement with,

Agreements
re instruction
in Indian
schools

(a) the Crown in right of Canada; or

(b) a band, the council of the band or an education authority referred to in clause (1) (b),

to provide for Indian pupils, for the period specified in the agreement, instruction and special services in schools provided by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, and such agreement shall provide for the payment by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, of the full cost of the provision of the instruction and special services.

s. 165 (4),
amended

(2) Subsection 165 (4) of the said Act is amended by,

(a) striking out "Indian" in the second line and where it occurs the first time in the third line; and

(b) inserting after "board" in the fifth line "or in the schools in which the board provides all the instruction".

s. 165 (5),
amended

(3) Subsection 165 (5) of the said Act is amended by striking out "divisional board or a county or district combined separate school" in the second and third lines.

s. 165,
amended

(4) Section 165 of the said Act is amended by adding thereto the following subsection:

When
Indian
school
enrolment
included

(6a) For the purpose of determining the number of Indian pupils enrolled in the schools under the jurisdiction of a board referred to in subsection (5) or (6), the number of Indian pupils in Indian schools in which the board provides all the instruction shall be included.

s. 165a,
enacted

45. The said Act is further amended by adding thereto the following section:

Interpre-
tation

165a.—(1) In this section "adult basic education" means programs and courses that are designed to develop and improve the basic literacy and numeracy skills of adults.

Agreements
for adult
basic
education

(2) Subject to the approval of the Minister, a board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in writing with a college of applied arts and technology for the area in which the board has jurisdiction under which the college of applied arts and technology provides for the board such adult basic education as is specified in the agreement.

46.—(1) Subsection 166 (1) of the said Act is amended by striking out “and to and from an activity that is part of the program of such school” in the twelfth and thirteenth lines. s. 166 (1),
amended

(2) Section 166 of the said Act is amended by adding thereto the following subsection: s. 166,
amended

(1a) A board may provide for a pupil who is enrolled in a school that the board operates, transportation to and from an activity that is part of the program of such school. Idem

(3) Clause 166 (9) (b) of the said Act is amended by inserting after “county” in the first line “or a regional municipality that is not in a territorial district”. s. 166 (9) (b),
amended

47. Subsections 167 (1) and (2) of the said Act are repealed and the following substituted therefor: s. 167 (1, 2),
re-enacted

(1) Subject to subsections (1a), (1c) and (2) a board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof and may pay to the chairman an amount determined by the board that is in addition to the allowance payable to the chairman as a member of the board. Allowance
for members

(1a) Commencing with the board that is organized following the regular election in the year 1982 the allowances payable under subsection (1) shall be those determined by the board prior to the date of the regular election to take effect for the term of office of the members of the board elected at the regular election. Idem

(1b) Where a new board is established or formed under the Act, the members who are elected at the first election of the board may determine the amount of the allowance to be paid to members of the board and the amount of any additional allowance payable to the chairman as a member of the board. Idem

(1c) A board may at any time decrease any allowance payable to the members or to the chairman of the board. Decrease in
allowance

(2) Where allowances have not been determined for the term of office of a new board the existing allowance payable to members of a board or to the chairman of the board during the school year 1981-82 or thereafter on the day of a regular election shall continue to be paid, subject to subsection (1c), until the expiry of the term of office of the members of the board or of the new board, as the case may be, and until allowances as determined by the board under subsection (1a) in respect of the term of office of a new board become payable. Continuance of
allowance

s. 171 (1),
amended

48.—(1) Subsection 171 (1) of the said Act is amended by striking out “Part IV as to the selection of a site by a rural separate school board, every board” in the first, second and third lines and inserting in lieu thereof “section 98 as to the approval of the site of a new school by a rural separate school board, every board may select and”.

s. 171 (6),
amended

(2) Subsection 171 (6) of the said Act is amended by inserting after “172” in the first line “or subsection 173 (1)”.

s. 173 (1, 2),
re-enacted

49.—(1) Subsections 173 (1) and (2) of the said Act are repealed and the following substituted therefor:

Acquisition
of land
for natural
science
program

(1) Where a board acquires a school site under subsection 171 (1), (2), (3) or (4) for the purpose of conducting thereon a natural science program and other out-of-classroom programs, the board shall obtain the approval of the Minister before it erects, adds to or alters buildings on or makes other improvements to the school site for such purpose.

Application

(1a) Subsection (1) does not apply with respect to a school site acquired by a separate school board under subsection 171 (1) or by a county or district combined separate school board under subsection 171 (3) where the cost of the erection of, the addition to or the alteration of the buildings on the school site or of making other improvements to the school site is provided entirely by the separate school board.

Idem

(1b) A board may, with the approval of the Minister, acquire by purchase or lease for the purpose of conducting a natural science program and other out-of-classroom programs a school site in Ontario that it does not have the authority to acquire under section 171, and the board shall obtain the approval of the Minister before it erects, adds to or alters buildings on or makes other improvements to the school site for such purpose.

Approval
not
required

(1c) An approval of the Minister is not required under subsection (1a) or (2) for normal maintenance to a building or site.

Agreement
between
boards

(2) Two or more boards may enter into an agreement for a period specified therein for the shared use of a school site in Ontario for conducting natural science programs and other out-of-classroom programs but, where under such agreement one of the boards may acquire or is to acquire by purchase or lease a school site for such purpose or is to erect, add to or alter a building on or make other improvements to such site, the agreement is not effective until it is approved by the Minister, and a school site situate outside the jurisdiction of the boards that are parties to the agreement shall not be acquired without the prior approval of the Minister.

- (2) Subsection 173 (3) of the said Act is amended by striking out "under subsection (1) or (2)" in the first line and inserting in lieu thereof "for the purpose of conducting a natural science program and other out-of-classroom programs". s. 173 (3),
amended

- 50.** Subsection 182 (9) of the said Act is repealed and the following substituted therefor: s. 182 (9),
re-enacted

(9) Subsection 74 (7) and sections 75 and 76 apply with necessary modifications to a committee established under subsection (2). Application
of ss. 74 (7),
75 and 76

- 51.** Subsection 183 (1) of the said Act is repealed and the following substituted therefor: s. 183 (1),
re-enacted

(1) The meetings of a board and, subject to subsection (1a), meetings of a committee of the board, including a committee of the whole board, shall be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct. Open
meetings
of boards

(1a) A meeting of a committee of a board, including a committee of the whole board, may be closed to the public when the subject-matter under consideration involves, Closing
of certain
committee
meetings

(a) the security of the property of the board;

(b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or his parent or guardian;

(c) the acquisition or disposal of a school site;

(d) decisions in respect of negotiations with employees of the board; or

(e) litigation affecting the board.

- 52.** Paragraph 2 of the Declaration to subsection 185 (1) of the said Act is amended by adding at the end thereof "and that I will disclose any pecuniary interest, direct or indirect, as required by and in accordance with the *Municipal Conflict of Interest Act*". s. 185 (1),
amended

R.S.O. 1980,
c. 305

- 53.** Section 196 of the said Act is amended by adding thereto the following subsection: s. 196,
amended

(1a) A person who is an elector, as defined in the *Municipal Elections Act* in respect of an area for which one or more members of a board are to be elected, is qualified to be elected as a member of the board for any area within the jurisdiction of the board, Idem
R.S.O. 1980,
c. 308

(a) by public school electors if he is a public school elector in the area in which he is an elector; or

(b) by separate school electors if he is a separate school elector in the area in which he is an elector,

if such person is otherwise qualified under subsection (1) and is not disqualified under subsection (2).

s. 198 (2) (b),
amended

- 54.** Clause 198 (2) (b) of the said Act is amended by striking out “the third year of the Intermediate Division” in the eighth line and inserting in lieu thereof “Grade 9”.

s. 204,
amended

- 55.** Section 204 of the said Act is amended by adding thereto the following subsection:

Interim
administration
pending new
elections
R.S.O. 1980,
c. 308

(2) Where under this Act vacancies on a board are required to be filled by an election to be conducted under the *Municipal Elections Act* and no election can be held under that Act, the Minister may by order provide for the fulfilling of the duties and obligations of the board until such time as a new election is held in accordance with the *Municipal Elections Act* and the members so elected have taken office.

s. 207 (1),
re-enacted

- 56.** Subsection 207 (1) of the said Act is repealed and the following substituted therefor:

Appointment
and dismissal
of auditor

(1) Every board shall appoint an auditor who shall hold office during good behaviour and be removable by the board for cause and who, except in the case of a board established under section 70, shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

s. 215a,
enacted

- 57.** The said Act is further amended by adding thereto the following section:

Exemption
by-laws not
to include
school taxes

215a. Notwithstanding any general or special Act no by-law of a municipal council exempting any part of the rateable property in the municipality from taxation in whole or in part shall, after this section comes into force, be effective or be held or construed to exempt the property from school rates of any kind.

s. 216 (2),
amended

- 58.** Subsection 216 (2) of the said Act is amended by striking out “where otherwise provided in the Act under which the sum is collected” in the fifth and sixth lines and inserting in lieu thereof “as provided in subsection 34 (3) of the *Assessment Act*”.

R.S.O. 1980,
c. 31

s. 235 (1),
amended

- 59.** Subsection 235 (1) of the said Act is amended by inserting after “teacher” in the first line “and a temporary teacher”.

s. 253,
amended

- 60.** Section 253 of the said Act is amended by adding thereto the following subsection:

(3) At the first meeting in December of each year the chief executive officer of a board shall submit to the board a report in a format approved by the Minister on the action he has taken during the preceding 12 months under subsection (2) and a copy of such report shall be submitted to the Minister on or before the 31st day of January next following.

General
report of
chief
executive
officer

- 61.** Section 256 of the said Act is amended by adding thereto the following subsection: s. 256,
amended

(5) A provincial supervisory officer or a person designated by the Minister shall have access, as required by the Minister, to any school and to the books and records of a board or a school.

Access to
books and
records,
etc.

- 62.** Subsection 258 (2) of the said Act is amended by inserting after "Where" in the first line "on or". s. 258 (2),
amended

- 63.** Subsection 261 (2) of the said Act is amended by inserting after "Where" in the first line "on or". s. 261 (2),
amended

- 64.—**(1) Section 262 of the said Act is amended by adding thereto the following subsection: s. 262,
amended

(3a) Section 206 applies with necessary modifications to a member of a committee under clause (2) (b).

Application
of s. 206

(2) Subsection 262 (4) of the said Act is amended by adding at the end thereof "and his successor is appointed or elected, as the case may be". s. 262 (4),
amended

- 65.** Section 263 of the said Act is amended by adding thereto the following subsection: s. 263,
amended

(2) The members of the committee to be appointed by the board shall be appointed not later than the date of the election meeting referred to in subsection (1). Idem

- 66.** Section 266 of the said Act is amended by adding thereto the following subsection: s. 266,
amended

(2) Subsection 197 (3) applies with necessary modifications to the resignation of a member of a committee. Application of
s. 197 (3)

- 67.** Subsection 270 (1) of the said Act is repealed and the following substituted therefor: s. 270 (1),
re-enacted

(1) Where a board has determined to pay an allowance to members of the board under subsection 167 (1), the board shall pay to each member of the committee who is not a member of the

Allowance

board an allowance in such amount as is determined by the board.

s. 275 (2),
re-enacted

68. Subsection 275 (2) of the said Act is repealed and the following substituted therefor:

Term,
reappoint-
ment and
remunera-
tion

(2) Members of the Commission shall hold office for a term of one, two or three years as may be determined from time to time by the Lieutenant Governor in Council, may be reappointed and shall be paid such remuneration as is determined by the Lieutenant Governor in Council.

Commence-
ment

69.—(1) This Act, except subsection 40 (2), comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 40 (2) comes into force on the 1st day of January, 1983.

Short title

70. The short title of this Act is the *Education Amendment Act, 1982*.

An Act to amend the Education Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

THE HON. B. M. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Education Act

THE HON. B. M. STEPHENSON
Minister of Education and Minister of Colleges and Universities

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. “band” and “council of the band” are defined in the Act for the first time since reference is now made to them in connection with agreements for the education of Indian pupils.

The definition of “credit” has been used for several years in regulations made under the Act and is now being included in the Act for convenience of reference.

A definition of “education authority” is required because of the use of this term in the Act.

The definition of “Indian” has been removed from subsection 11 (2) of the Act and now appears in the interpretation section.

Subsection 2. Paragraph 66 of subsection 1 (1) of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. “teacher” means a person who holds a valid certificate of qualification as a teacher in an elementary or a secondary school in Ontario.

The amendment includes in the definition of teacher a person who holds a letter of standing. Such a person is always intended to be included when a teacher is spoken of in the Act and the regulations.

Subsection 3. The provisions of subsection 1 (3) of *The Education Act, 1974* were not included in the 1980 revision of the *Education Act*. Concern has been expressed that repeal of the provisions re-enacted by this section casts doubt upon the continuity of certain school jurisdictions, therefore the subsection is re-enacted retroactively to the coming into force of the Revised Statutes of Ontario, 1980.

SECTION 2. The amendment authorizes the Minister to delegate powers and duties to the Deputy Minister or to any officer in the Ministry of Education and provides that a contract entered into under such delegated authority is binding on the Crown.

SECTION 3.—Subsection 1. Clause 8 (1) (i) of the Act now reads as follows:

8.—(1) *The Minister may,*

(i) *grant a letter of standing to a person who is a qualified teacher in a jurisdiction outside Ontario and who holds academic and professional qualifications equivalent to those required in Ontario at the time of the issuing of the letter of standing.*

The purpose of the amendment is to permit the Minister to deem pupils of boards on co-operative education or work experience programs to be employees of Ontario to enable them to be eligible for compensation under the *Workmen's Compensation Act*.

The present clause (i) is repealed as the granting of letters of standing is dealt with by the regulations.

Subsection 2. Clause 8 (1) (m) of the Act now reads as follows:

8.—(1) *The Minister may,*

(m) suspend or cancel and reinstate any interim, temporary, permanent, special or other certificate of qualification or letter of standing.

The words being deleted by the amendment are made unnecessary by the new Ontario Teacher's Qualifications Regulation.

Subsection 3. Clause 8 (1) (p) of the Act now reads as follows:

8.—(1) *The Minister may,*

(p) provide or approve and review courses for teachers, principals and supervisory officers.

The purpose of the amendment is to authorize the Minister to provide or approve courses for attendance counsellors and native counsellors and to grant certificates to such persons.

Subsection 4. Clause 8 (1) (r) of the Act now reads as follows:

8.—(1) *The Minister may,*

(r) provide for, and prescribe the conditions of, the granting of scholarships, bursaries and awards to pupils.

The amendment authorizes the Minister to provide for and prescribe the conditions of the granting of bursaries to teachers.

Subsection 5. The amendment clarifies the authority of the Minister to issue guidelines with respect to school closings.

SECTION 4.—Subsection 1. Paragraph 11 of subsection 10 (1) of the Act now reads as follows:

10.—(1) *Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money,*

- 11. governing the granting, suspending and cancelling of permanent, temporary, interim, special and other certificates of qualification, and letters of standing.*

The words being deleted by the amendment are made unnecessary by the new Ontario Teacher's Qualifications Regulation.

Subsection 2. The new paragraph 11a authorizes the making of regulations to provide for the issuing of the teacher's qualifications record cards and governing the qualifications that may be recorded thereon.

Subsection 3. Paragraph 24 of subsection 10 (1) of the Act now reads as follows:

10.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money,

- 24. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, directors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, school attendance counsellors and other officials.*

The purpose of the amendment is to update present terminology. The only bursars in the present system are employed in the Ontario Schools for the Blind and the Ontario Schools for the Deaf and these persons are now called business administrators. The persons formerly known as matrons in the same schools are now referred to as residence counsellors.

Subsection 4. Under the powers of a board to provide educational programs and activities, a board may have the power to engage in programs and activities that are, or may be, in competition with the private sector. The new paragraph 33 of subsection 10 (1) will enable regulations to be made to regulate and control or, where appropriate, to prohibit a board from engaging in such programs and activities.

Subsection 5. Clause 10 (8) (b) of the Act now reads as follows:

(8) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (b) prescribing the fee to be paid to the Ministry for duplicates of certificates of qualification and letters of standing.*

The amendment permits regulations to be made prescribing the fee to be paid for duplicates of Ontario Teacher's Qualifications Record Cards.

SECTION 5.—Subsection 1. Subsection 11 (2) of the Act now reads as follows:

- (2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the Indian Act (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act.*

This amendment is complementary to subsection 1 (1) of the Bill.

Subsection 2. The new subsection (2a) permits Ontario to enter into an agreement with a band, council of the band or an education authority for the education of non-Indian pupils in schools operated by such band, the council of the band or education authority.

SECTION 6. Clause 12 (6) (g) of the Act now reads as follows:

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to schools continued or established under this section,

(g) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit.

The purpose of the amendment is to refer to the person formerly known as the bursar of an Ontario School for the Blind or an Ontario School for the Deaf as the business administrator.

SECTION 7. Subsection 25 (1) now implies that a warrant is needed to enter a dwelling place to remove therefrom a truant child. The words "without a warrant" are removed from the section as no such warrant exists.

SECTION 8. The amendment permits a judge to require a bond in addition to a fine for neglecting or refusing to cause a child to attend school. The original subsection provides that a bond can be imposed only in lieu of a fine.

SECTION 9. Subsection 30 (1) of the Act now reads as follows:

(1) Prosecutions under section 29 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 29 (1) shall be instituted in the Provincial Court (Family Division).

The amendment permits prosecutions under subsection 29 (1) to be instituted in the Unified Family Court where such a court has been established.

SECTION 10. This amendment is complementary to the amendment to section 48 of the Act. (See section 12 of the Bill).

SECTION 11. The purpose of the amendment is to ensure that where a college of applied arts and technology requires a certain course of study as a prerequisite, a student may attend another secondary school other than the one at which he is qualified to be a resident pupil in order to obtain credit for that course where the course is not offered at his own school.

SECTION 12. The new subsection (6) requires boards to charge gross fees to all pupils on student visas except participants in certain educational exchange programs, pupils who enrol prior to the 1st day of July, 1982 and a pupil who is in Canada while his parent or the person who has lawful custody of him is in Canada on a work visa, a diplomatic visa or a ministerial permit.

SECTION 13. The amendment makes it clear that an area that is deemed a district municipality ceases to be so deemed if it becomes part of a municipality.

SECTION 14.—Subsection 1. The amendment permits the cancellation, reduction or refund of taxes on lands in territory without municipal organization in the same way as by the council of an organized municipality and makes subsection 67 (12) of the Act apply in respect of such territory.

Subsection 2. The amendment will permit the establishment of a limitation on the increase or decrease, as the case may be, in taxes in territory without municipal organization that is deemed a district municipality, or in territory without municipal organization attached to a municipality, where the increase or decrease is caused by re-assessment.

SECTION 15.—Subsection 1. Complementary to the changes set out in subsection (3) of this section of the Bill.

Subsection 2. Clause 54 (1) (c) of the Act now reads as follows:

54.—(1) *The Lieutenant Governor in Council may, by regulation,*

(c) dissolve a board of a school division or school section.

The amendment makes it clear that the dissolution of the board of a school section under this section applies only in the case where the school section is to be included in a school division. The present provisions of sections 68 and 70 of the Act apply to other dissolutions.

Subsection 3. The amendment simplifies the process for changing the name of a board.

SECTION 16.—Subsection 1. Subsection 59 (23) of the Act now reads as follows:

(23) *The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school electors, as the case may be, in the municipality, provided that, where it is determined under this section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate school electors in a municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school electors, as the case may be, in each of such areas.*

The amendment restricts the power of a municipal council to pass a by-law that divides a municipality into areas for the purpose of electing members to a divisional board in a case where the board has so requested.

Subsection 2. The requirements in this subsection are now dealt with in subsections 36 (3) and (4) of the *Municipal Elections Act*.

SECTION 17. This amendment is consistent with the repeal of subsection 59 (34) of the Act (see section 16 of the Bill).

SECTION 18. The amendment permits the making of a regulation to detach a portion from a district school area without adding the portion detached to or forming it into another district school area.

SECTION 19. Subsection 64 (5) is re-enacted to delete the reference to a two year term of office and to relate the term of office to the time of the holding of regular elections, under the *Municipal Elections Act*.

SECTION 20.—Subsection 1. The amendment to subsection 65 (1) of the Act is necessary to clarify that a first election of a district school area board may take place as set out in subsection 65 (4).

Subsection 2. Subsection 65 (4) of the Act is amended to make it clear that subsection 65 (4) applies to first elections and subsection 64 (5) applies to subsequent elections of a district school area board.

Subsection 3. This amendment is consistent with the amendment to section 100 of the Act (see section 33 of the Bill).

SECTION 21. Subsection 66 (1) of the Act now reads as follows:

- (1) Notwithstanding section 65, before the 1st day of July in an election year, the board of a district school area may, by resolution approved at a meeting of the electors, determine that the board shall conduct the elections in the same manner as for the members of a divisional board of education, except that the members shall be elected by a general vote of the electors of the district school area and for such purposes subsection 53 (1) applies with necessary modifications to the district area board and to the officers of such board.*

The amendment corrects a reference to a district school area board referred to in subsection 62 (1) of the Act and makes it clear that the electors referred to in the subsection are public school electors.

SECTION 22. The new section 66a permits regulations to be made providing for the nomination of candidates, prescribing the manner of holding an election, the number of members to be elected and the areas each member is to represent where a district school area is formed under clause 62 (2) (b) of the Act.

SECTION 23. Subsections 68 (1), (2) and (3) of the Act now read as follows:

- (1) Where the number of public school pupils of compulsory school age residing in a district school area is fewer than ten and the board has ceased to operate a school, the Minister may declare the district school area inactive as of the 31st day of December in any year.*
- (2) When a district school area is declared to be inactive, the board shall liquidate its assets, settle its accounts and have them audited, and forward to the Ministry the audited statement of accounts, the auditor's report and the balance of the funds for deposit in the Consolidated Revenue Fund.*
- (3) If the Minister is satisfied that the board has carried out its duties under subsection (2) he shall dissolve the board and the district school area shall cease to exist as of the date that the district school area was declared inactive under subsection (1).*

The amendment to subsection 68 (1) makes it clear that it is the "board" that the Minister declares to be inactive in the circumstances described in the subsection and not the "area". The amendments to subsections 68 (2) and (3) are complementary thereto.

SECTION 24. Clause 69 (2) (a) of the Act now reads as follows:

- (2) Where a secondary school district is established under subsection (1), the Lieutenant Governor in Council may make regulations providing for,*
- (a) the formation and composition of a secondary school board.*

The amendment provides a method for dissolving a board established under section 69 of the Act.

SECTION 25. The new subsection 74 (8) of the Act clarifies the authority of a divisional board to pay or to continue to pay an allowance to members of an advisory committee on schools for trainable retarded pupils who are not members of the board whether the board continues that committee and establishes a special education advisory committee or decides to expand the advisory committee on schools for trainable retarded pupils in the manner prescribed in subsection 182 (7). Members of a special education advisory committee will not be eligible to receive an allowance other than under subsection 74 (8).

Consistent with the amendment to subsection 167 (1) the size of the allowance is no longer regulated and is determined by the board in office from time to time.

SECTION 26. The amendment corrects a reference and moves the commencement date of a new combined separate school board forward one month to conform with the provisions of the *Municipal Elections Act*.

SECTION 27.—Subsection 1. The words deleted are redundant since the term of office of members of an urban separate school board are now set out in the *Municipal Elections Act*.

Subsection 2. The new subsection 90 (2a) of the Act provides for the term of office of trustees elected at the formation of an urban Roman Catholic separate school board under section 83 of the Act and provides that elections subsequent to those at the time of the formation are to be held under the *Municipal Elections Act*.

SECTION 28. The amendments are complementary to the amendment to subsection 90 (1) of the Act. (See section 27 of the Bill).

SECTION 29. The amendment makes the wording consistent with that of subclause 2 (a) (iv) of the *Municipal Elections Act*, thus ensuring that such Act governs the election of trustees of urban separate school boards.

SECTION 30. The clause, as amended, removes an inconsistency with the *Municipal Elections Act*.

A person who becomes eighteen years of age between the date of enumeration and polling day may now be enumerated as a separate school elector under this section as if he was eighteen years of age on enumeration day. Heretofore, such a person could be enumerated only as a public school elector or if he was a separate school supporter as a separate school elector.

SECTION 31. Subsections 97 (1) and (3) are re-enacted to remove the reference to a two year term of office and relate the term of office of the trustees to the time of the holding of regular elections under the *Municipal Elections Act*.

SECTION 32.—Subsection 1. Subclause 98 (1) (a) (ii) of the Act now reads as follows:

(a) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for,

(ii) the selection of a new school site.

The re-enactment changes the purpose of the special meeting from the selection of a new school site to the approval of a site selected by the board for a new

school. This allows the original selection to be done by the board but retains the right of the supporters to approve or not approve such selection. It also limits such approval to the selection of the site of a new school rather than to the selection of any school site that includes a site that might be used for a residence, office, parking area, garden or other purpose.

Subsection 2. The proposed new subsection re-enacts a provision that was contained in subsection 36 (1) of *The Separate Schools Act* but was omitted in the consolidation of that Act in *The Education Act, 1974*. The inclusion of this subsection is necessary to make it clear that the approval of the supporters of the site selected for a new school is necessary before the board can proceed to acquire the site.

This amendment is complementary to section 48 of the Bill.

SECTION 33. The purpose of the amendment is to clarify the voting procedures at the election of a rural separate school board.

SECTION 34. Subsection 103 (1) is re-enacted to clarify the election procedures and the number of trustees to be elected where a new combined Roman Catholic separate school zone is formed or an existing combined Roman Catholic separate school zone is altered in either an election year or an off election year.

SECTION 35. Subsections 111 (2) and (3) of the Act now read as follows:

(2) *A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city is a corporation by the name of "The County Roman Catholic Separate School Board" (inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister).*

(3) *A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of "The Roman Catholic Separate School Board" (inserting the name of the area designated by the regulations).*

The amendment makes the wording of subsection 111 (3) of the Act consistent with the wording of subsection 111 (2) of the Act.

SECTION 36.—Subsection 1. The amendment permits the cancellation, reduction or refund of taxes on lands in territory without municipal organization in the same way as may be done by the council of an organized municipality and makes subsection 67 (12) apply in respect of such territory.

Complementary to the amendment to subsection 53 (1) of the Act (see section 14 of the Bill).

Subsection 2. The amendment will permit the establishment of a limitation on the increase or decrease, as the case may be, in taxes in territory without municipal organization that is deemed a district municipality under subsection (1), where the increase or decrease is caused by re-assessment.

SECTION 37. Subsection 113 (19) of the Act now reads as follows:

(19) *The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school electors of such board in the municipality, provided that, where the number of trustees to be elected to the board by the separate school electors in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or*

more areas and provide for the election of one or more of such trustees by the separate school electors in each of such areas.

The amendment restricts the power of a municipal council to pass a by-law that divides a municipality into areas for the purpose of electing members to a county or district combined separate school board in a case where the board has so requested.

SECTION 38. This repeal is consistent with the repeal of subsection 59 (34) of the Act (see section 16 of the Bill).

SECTION 39. The amendment makes it clear that a board is required to carry out those duties imposed upon it by the Minister under section 8 of the Act.

SECTION 40.—Subsection 1. The amendment makes it clear that a board may appoint persons who are not members of the board to certain committees.

Subsection 2. Complementary to the amendment to subsection 8 (1) of the Act. (see subsection 3 (5) of the Bill).

SECTION 41. This amendment is complementary to the amendment to subsection 167 (1) of the Act (see section 47 of the Bill). The amount of an allowance, if any, payable to a member of an advisory committee for a vocational course is no longer related to the amount determined under subsection 167 (1) but may be determined from time to time by the board in office.

SECTION 42. The amendment ensures that when a sick leave gratuity is paid, the number of days used to calculate the amount of the gratuity are written off and not available for transfer or reinstatement under subsection 158 (2) of the Act.

SECTION 43. Section 164 of the Act now reads as follows:

164. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada.

The amendment makes it clear that the school in which instruction is provided under this section may be on an Indian reserve.

SECTION 44.—Subsection 1. Subsection 165 (1) of the Act now reads as follows:

(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be calculated in accordance with the regulations.

Subsection 165 (1) is re-enacted to add permission for a board to make an agreement with a band, the council of the band or education authority where such band, the council of the band or education authority has been authorized by Canada to provide education for Indians.

The new subsection (1a) adds a new authority permitting a board to enter into an agreement to provide instruction and services on an Indian reserve.

Subsection 2. Subsection 165 (4) of the Act now reads as follows:

(4) *Where a board has entered into one or more agreements under this section, the council of the Indian band, or the councils of the Indian bands, to which the Indian pupils, or a majority of the Indian pupils, who are, pursuant to the agreement or agreements, enrolled in the schools operated by the board, belong, may, subject to subsection (5), name one person to represent on the board the interests of the Indian pupils and, where a person is so named, the board shall, subject to subsection (6), appoint the person a member of the board, and the member so appointed shall be deemed to be an elected member of the board, except that,*

(a) *where the agreement or agreements under this section are in respect of secondary school pupils only, the member so appointed is a trustee for secondary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect public schools exclusively; and*

(b) *where the agreement or agreements under this section are in respect of elementary school pupils only, the member so appointed is a trustee for elementary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect secondary schools exclusively.*

The deletion of the word "Indian" is consistent with the amendments in section 1 of the Bill.

Subsection 3. Subsection 165 (5) of the Act now reads as follows:

(5) *Where the number of Indian pupils enrolled in the schools under the jurisdiction of a divisional board or a county or district combined separate school board pursuant to one or more agreements made under this section exceeds 25 per cent of the average daily enrolment in the schools of the board, two persons may be named under subsection (4), and subsection (4) applies with necessary modifications in respect of such persons.*

The amendment permits a second Indian representative to be appointed to a district school area board and to a rural separate school board where the number of Indian pupils enrolled exceeds 25 per cent of the average daily enrolment of the board.

Subsection 4. The new subsection (6a) provides for the counting of Indians enrolled in schools on a reserve where a board provides the instruction, when determining Indian representation on a board.

SECTION 45. The new section 165a enables school boards to provide basic education programs for adults by agreements with colleges of applied arts and technology. Such programs may be in lieu of or in addition to those provided directly by boards.

SECTION 46.—Subsections 1 and 2. Subsection 166 (1) of the Act now reads as follows:

(1) *A board may provide for,*

(a) *a resident pupil of the board who is enrolled in a school that the board operates or in a school operated by another board to which the board pays fees in respect of such pupil;*

(b) *a pupil in respect of whom the Minister pays the cost of education under the regulations; and*

(c) a child over two years of age who may, under the regulations, be admitted to a program for hearing-handicapped children,

transportation to and from the school that the pupil attends and to and from an activity that is part of the program of such school.

The amendment to subsection 166 (1) and the enactment of subsection 166 (1a) has the effect of removing any doubt that a board may transport each of the pupils enrolled in its schools to and from an activity that is part of the program in the schools. It also enables a board that provides transportation of pupils to and from an activity to claim a grant in respect of the costs of such transportation regardless of the fact that some of those pupils may be enrolled in the schools of the board under an agreement with another board for their education under which fees are paid.

Subsection 3. The amendment makes provision for reimbursement of a parent for the cost of board, lodging and transportation where a pupil resides in a residence in a regional municipality, except The Regional Municipality of Sudbury, that is forty-eight kilometres or more from the school that he attends.

SECTION 47. Commencing with school boards elected in the year 1982 school board members and trustees and chairmen may receive an allowance as determined by the outgoing board. The allowances shall be determined for and be effective in the period the members of the new board are in office but may be decreased by the new board.

Where a board that is to be replaced at the regular election does not fix a new allowance, the existing allowances payable to members and chairman of the board shall continue until they are altered under the provisions of this section.

A newly formed board may determine its own first allowance.

SECTION 48.—Subsection 1. Subsection 171 (1) of the Act now reads as follows:

(1) Subject to the provisions of Part IV as to the selection of a site by a rural separate school board, every board may acquire, by purchase or lease, or may expropriate, a school site that is within its area of jurisdiction.

This amendment is complementary to the amendments to section 98 of the Act (see section 32 of the Bill) and clarifies the provisions to which this subsection is subject.

Subsection 2. This is consistent with the amendment to section 173 of the Act as set out in section 49 of the Bill.

SECTION 49.—Subsection 1. Subsections 173 (1) and (2) are rewritten for clarification. Lands acquired for a natural science program are a school site as defined in paragraph 53 of subsection 1 (1) of the Act. Section 171 authorizes school boards to acquire school sites without approval of the Minister where the sites are within the areas of jurisdiction of boards but requires approval of the Minister where a school site is situate outside the jurisdiction. As previously written, subsections 173 (1) and (2) appeared to be at variance with the concepts in section 171 where the land for a natural science program was situate outside the area of jurisdiction of the acquiring board.

The new subsection (1) will permit the requirements of section 171 to prevail where the school site is acquired for natural science programs under that section subject to the requirement of approval where construction of facilities is required.

The new subsection (1a) ensures that there is no interference with the constitutional rights of separate school boards.

The new subsection (1b) extends the authority provided in section 171 for boards to acquire a school site outside their area of jurisdiction where it is for the purpose of a natural science program but such authority is made subject to the approval of the Minister as to the acquisition and in respect of the construction of facilities.

Subsection (2) clarifies the previous authority of boards to share existing lands and facilities for conducting a natural science program and makes the principle of Ministerial approval apply where lands for such purpose are acquired outside the areas of jurisdiction of the boards who enter the agreement. Approval of the sharing agreement is required as is approval for construction.

Subsection 2. The amendment to subsection 173 (3) of the Act is complementary to the changes in subsections (1) (1a), (1b) and (2).

SECTION 50. This amendment is complementary to the amendment to subsection 74 (8) of the Act (see section 25 of the Bill).

SECTION 51. The subsection is revised to make clear that meetings of a board are always open to the public and that meetings of a committee, including a committee of the whole board, may be closed to the public only at such times when the subject-matter being discussed comes within one or more of the subject areas set out in the new subsection (1a).

SECTION 52. The declaration is amended to make it consistent with the declaration that is required to be given under the *Municipal Act*.

SECTION 53. The amendment makes it clear that the fact that a person is not entitled to vote at the election of a member of the board to be elected from a particular municipality or locality or combination thereof in the area of jurisdiction of the board does not disqualify the person to be elected as a member of the board in such municipality, locality or combination thereof.

SECTION 54. Clause 198 (2) (b) of the Act now reads as follows:

(2) *Subject to section 202, where, in respect of a board of education, the office of a member elected by separate school electors becomes vacant from any cause before the expiration of the term for which he was elected, and,*

(b) there are no remaining members elected by separate school electors or the remaining members elected by separate school electors are not a majority of the members elected by separate school electors, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils below the third year of the Intermediate Division who resided in the school division, as certified by the appropriate supervisory officer,

The amendment implements current policy of the Ministry in respect of terminology for designating grade levels.

SECTION 55. Under the *Municipal Elections Act* no by-election can be conducted to fill a vacancy after the 31st day of March in an election year. The new provision is similar to that in subsection 48 (2) of the *Municipal Act* and is necessary because no other provision exists under which a board could continue to operate because the number of members remaining in office is less than a quorum.

SECTION 56. Subsection 207 (1) of the Act now reads as follows:

- (1) *Every board shall appoint an auditor who shall be a person licensed by the Ministry of Intergovernmental Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the board.*

The amendment excludes a board established on tax-exempt land from the requirement that its auditor be licensed as a municipal auditor under the *Municipal Affairs Act*.

The amendment also removes the requirement of a vote of two-thirds of the members of a board to remove an auditor, thus making the subsection consistent with the provisions of the *Municipal Act*.

SECTION 57. Subsection 216 (2) of the Act now reads as follows:

- (2) *The council of a municipality shall annually account for all moneys collected for school purposes, and any sum collected in excess of the amount required by a board to be raised by the municipality for such purposes shall, except where otherwise provided in the Act under which the sum is collected, be retained by the municipality and applied to reduce the amount that the municipality is required by such board to raise for such purposes in the year next following.*

The purpose of the amendment is to make it clear that subsection 167 (2) of the *Municipal Act* does not apply to any moneys collected by a municipality for school purposes that are surplus to the requirements of the school board for which it was collected.

The result of this amendment is to make subsection 216 (2) consistent with subsection 34 (3) of the *Assessment Act*, which section requires that taxes collected from assessment omitted from the roll by error and subsequently picked up, or from supplementary or new assessment that is subsequently added to the roll, are to be turned over to the board by the year end. The amendment also requires the municipality to hold for school purposes for the following year any moneys collected in excess of the amount required by the board.

SECTION 58. The amendment makes it clear that a person teaching on a letter of permission is required to perform the same duties as a qualified teacher.

SECTION 59. The amendment requires the chief executive officer of a board to submit an annual report to the board and to the Minister.

SECTION 60. The amendment gives provincial supervisory officers access to schools and board records, where the Minister so requires.

SECTION 61. Subsection 258 (2) of the Act now reads as follows:

- (2) *Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board referred to in subsection (1) that a number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following school year.*

The purpose of the amendment is to include the first school day in September in the time period referred to.

SECTION 62. Subsection 261 (2) of the Act now reads as follows:

- (2) *Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of French-speaking pupils resident in the secondary school district have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day in the following school year.*

The purpose of the amendment is to include the first school day in September in the time period referred to.

SECTION 63.—Subsection 1. The amendment makes an elected member of a language advisory committee subject to the same disqualifications as a member of the board.

Subsection 2. Subsection 262 (4) of the Act now reads as follows:

- (4) *A member of a committee shall hold office during the term of the members of the board and until a new board is organized.*

The amendment extends the term of office of a member of a French-language advisory committee until his successor is appointed or elected.

SECTION 64. The new subsection (2) requires the new board to make its appointments to the committee by the date of the election referred to in subsection (1).

SECTION 65. The amendment provides for the orderly resignations of the elected members of a language advisory committee and ensures that the number of members of the committee shall never be less than a quorum.

SECTION 66. The subsection is re-enacted to clarify the circumstances in which members of a French-language advisory committee shall receive an allowance and removes the regulation of the amount of such allowance consistent with the principle that the allowance should be determined by the board in office from time to time.

SECTION 67. The subsection as re-enacted permits members to be appointed for a term of one, two or three years as determined by the Lieutenant Governor in Council. The purpose of the amendment is to permit flexibility and continuity in the making of appointments by staggering the terms of office of the members.

Subsection 275 (2) of the Act now reads as follows:

- (2) *Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.*

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs: s. 1 (1),
amended

2a. “band” and “council of the band” have the same meaning as in the *Indian Act* (Canada); R.S.C. 1970,
c. I-6

.

10a. “credit” means recognition granted to a pupil by a principal as *prima facie* evidence that the pupil has successfully completed a quantity of work that,

- i. has been specified by the principal in accordance with the requirements of the Minister, and
- ii. is acceptable to the Minister as partial fulfilment of the requirements for the Secondary School Graduation Diploma or the Secondary School Honour Graduation Diploma, as the case may be;

.

19a. “education authority” means a corporation that is incorporated by two or more bands or councils of bands for the purpose of providing for the educational needs of the members of such bands;

.

R.S.C. 1970,
c. I-6

23*a*. "Indian" has the same meaning as in the *Indian Act* (Canada).

s. 1 (1),
par. 66,
amended

(2) Paragraph 66 of the said subsection 1 (1) is amended by inserting after "qualification" in the second line "or a letter of standing".

s. 1,
amended

(3) Section 1 of the said Act is amended by adding thereto the following subsection:

Existing
school
arrangements
continued

(5) Until altered under the authority of this or any other Act, all school jurisdictions and boards, including the names of the boards, as they existed on the 31st day of July, 1981, are continued subject to the provisions of this Act.

s. 2,
amended

2. Section 2 of the said Act is amended by adding thereto the following subsections:

Delegation
of powers
and duties

(4) The Minister may in writing authorize the Deputy Minister or any other officer or employee in the Ministry to exercise any power or perform any duty that is granted to or vested in the Minister under this or any other Act.

Limitations

(5) The Minister may in writing limit an authorization made under subsection (4) in such manner as he considers advisable.

Application of
R.S.O. 1980,
c. 147, s. 6

(6) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (4).

s. 8 (1) (i),
re-enacted

3.—(1) Clause 8 (1) (i) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 539

(i) prescribe the conditions under which and the terms upon which pupils of boards shall be deemed to be employees for the purpose of coverage under the *Workmen's Compensation Act*, deem pupils to be employees for such purpose and require a board to reimburse Ontario for payments made by Ontario under that Act in respect of a pupil of the board deemed to be an employee of Ontario by the Minister.

s. 8 (1) (m),
amended

(2) Clause 8 (1) (m) of the said Act is amended by striking out "interim, temporary, permanent, special or other" in the first and second lines.

s. 8 (1) (p),
amended

(3) Clause 8 (1) (p) of the said Act is amended by striking out "and supervisory officers" in the second line and inserting in lieu thereof "supervisory officers, attendance counsellors and

native counsellors and grant certificates in respect of the successful completion of such courses”.

- (4) Clause 8 (1) (*r*) of the said Act is amended by adding at the end thereof “and the granting of bursaries to teachers”. s. 8 (1) (*r*),
amended

- (5) Subsection 8 (1) of the said Act is amended by adding thereto the following clause: s. 8 (1),
amended

(z) in respect of schools under the jurisdiction of a board, issue guidelines respecting the closing of schools and require that boards develop policies therefrom with respect to procedures to be followed prior to the closing of a school by decision of the board.

- 4.—(1) Paragraph 11 of subsection 10 (1) of the said Act is amended by striking out “permanent, temporary, interim, special and other” in the second line. s. 10 (1),
par. 11,
amended

- (2) The said subsection 10 (1) is amended by adding thereto the following paragraph: s. 10 (1),
amended

11a. providing for the issuing of teacher’s qualifications record cards and governing the professional qualifications that may be recorded on such record cards. teacher’s
quali-
fications
record cards

- (3) Paragraph 24 of the said subsection 10 (1) is amended by striking out “bursars, matrons” in the fourth line and inserting in lieu thereof “residence counsellors”. s. 10 (1),
par. 24,
amended

- (4) The said subsection 10 (1) is further amended by adding thereto the following paragraph: s. 10 (1),
amended

33. Notwithstanding paragraph 26 of subsection 150 (1), prohibiting or regulating and controlling any program or activity of a board that is or may be in competition with any business or occupation in the private sector and providing that such regulations have general application or application to a particular board. competition
with
private
sector

- (5) Clause 10 (8) (*b*) of the said Act is amended by striking out “and letters of standing” in the second and third lines and inserting in lieu thereof “letters of standing and Ontario Teacher’s Qualifications Record Cards”. s. 10 (8) (*b*),
amended

- 5.—(1) Subsection 11 (2) of the said Act is amended by striking out “as defined in that Act” in the fifth line. s. 11 (2),
amended

- (2) Section 11 of the said Act is amended by adding thereto the following subsection: s. 11,
amended

(2a) The Crown in right of Ontario, represented by the Minister, may enter into an agreement with a band, the council Non-Indian
pupils at
Indian
schools

of the band or an education authority where such band, council of the band or education authority is authorized by the Crown in right of Canada to provide education for Indians, for the admission of pupils who are not Indians to a school operated by the band, council of the band or education authority.

s. 12 (6) (g),
amended

- 6.** Clause 12 (6) (g) of the said Act is amended by striking out "bur-sar" in the second line and inserting in lieu thereof "business administrator".

s. 25 (1),
amended

- 7.** Subsection 25 (1) of the said Act is amended by striking out "with-out a warrant" in the eighth line.

s. 29 (2),
amended

- 8.** Subsection 29 (2) of the said Act is amended by inserting after "may" in the first line "in addition to or".

s. 30 (1),
amended

- 9.** Subsection 30 (1) of the said Act is amended by adding at the end thereof "or the Unified Family Court".

s. 31 (2),
amended

- 10.** Subsection 31 (2) of the said Act is amended by inserting after "Part" in the first line "except subsection 48 (6)".

s. 40 (1) (c),
amended

- 11.** Clause 40 (1) (c) of the said Act is amended by inserting after "course" in the seventh line "or college of applied arts and technology".

s. 48,
amended

- 12.** Section 48 of the said Act is amended by adding thereto the following subsection:

Fees for
pupils

1976-77,
c. 52 (Can.)

(6) Notwithstanding any other provision of this Act, where a board admits to a school that it operates, a person who is in Canada as a visitor or as a student under the *Immigration Act*, 1976 (Canada), except,

(a) a participant in an educational exchange program under which a pupil of the board attends without fee a school outside Canada;

(b) a pupil who enrolls in an elementary school or a secondary school prior to the 1st day of July, 1982; or

(c) a person who is in Canada while his parent or the person who has lawful custody of him is in Canada on a work visa, a diplomatic visa or a ministerial permit,

the board shall charge the person the maximum fee calculated in accordance with the regulations.

s. 52 (3),
amended

- 13.** Subsection 52 (3) of the said Act is amended by adding at the end thereof "unless and until it becomes or is included in a municipality".

14.—(1) Subsection 53 (1) of the said Act is amended by inserting after “collecting” in the seventh line “cancelling, reducing or refunding” and by striking out “11” in the thirteenth line and inserting in lieu thereof “12”. s. 53 (1),
amended

(2) Section 53 of the said Act is amended by adding thereto the following subsection: s. 53,
amended

(2a) Section 362 of the *Municipal Act* applies to territory without municipal organization that is deemed a district municipality under this Act, and the divisional board has the powers of a municipal council under the said section 362 in respect of any such territory that is not attached to a municipality for school purposes, and the council of the municipality to which any such territory is attached for public school purposes and for secondary school purposes under subsection (2) has the powers of a municipal council under the said section 362 in respect of the territory so attached. Application of
R.S.O. 1980,
c. 302, s. 362

15.—(1) Clause 54 (1) (b) of the said Act is repealed. s. 54 (1) (b),
repealed

(2) Clause 54 (1) (c) of the said Act is amended by striking out “school section” in the first and second lines and inserting in lieu thereof “of a school section that is included in a school division”. s. 54 (1) (c),
amended

(3) Subsection 54 (6) of the said Act is amended by striking out “(*inserting the name assigned by the regulations*)” in the seventh and eighth lines and inserting in lieu thereof “(*inserting the name selected by the board and approved by the Minister*)”. s. 54 (6),
amended

16.—(1) Subsection 59 (23) of the said Act is amended by inserting after “may” in the eighth line “where so requested by the divisional board”. s. 59 (23),
amended

(2) Subsection 59 (34) of the said Act is repealed. s. 59 (34),
repealed

17. Subsection 61 (2) of the said Act is repealed and the following substituted therefor: s. 61 (2),
re-enacted

(2) Subsection 59 (32) applies with necessary modifications to the nomination and election of candidates for members of a board of education. Qualifications
for nominators
of candidates

18. Subsection 62 (2) of the said Act is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d), and by adding thereto the following clause: s. 62 (2),
amended

(e) detach a portion thereof from a district school area.

s. 64 (5),
re-enacted

- 19.** Subsection 64 (5) of the said Act is repealed and the following substituted therefor:

Election
year end
term of office
R.S.O. 1980,
c. 308

(5) The election of members of the board of a district school area that is not an improvement district shall be held in each year in which a regular election is held under the *Municipal Elections Act* and the members shall hold office until the next regular election is held under that Act and their successors are elected under this Act and the new board is organized except that,

(a) where a new district school area is formed to take effect on the 1st day of January in a year that is not a year of a regular election under the *Municipal Elections Act*, the first members of such board shall be elected in the year preceding such 1st day of January and shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized; or

(b) where the boundaries of a district school area are altered to take effect on the 1st day of January in a year that is not a year in which a regular election is held under the *Municipal Elections Act*, a new district school area board shall be elected in the year preceding such 1st day of January and the members so elected shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized.

s. 65 (1),
amended

- 20.—**(1) Subsection 65 (1) of the said Act is amended by inserting after "66" in the first line "and subject to subsection (4)".

s. 65 (4),
re-enacted

- (2) Subsection 65 (4) of the said Act is repealed and the following substituted therefor:

First
meeting

(4) Notwithstanding subsection 64 (5), the first meeting for the election of a board of a district school area formed or altered under subsection 62 (2) shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting and the persons so elected shall hold office until the date the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized.

R.S.O. 1980,
c. 308

s. 65 (8),
amended

- (3) Subsection 65 (8) of the said Act is amended by inserting after "(9)" in the first line "(10a)".

s. 66 (1),
amended

- 21.** Subsection 66 (1) of the said Act is amended by,

- (a) inserting after “the” in the third line “public school”;
- (b) inserting after “the” where it occurs the first time in the seventh line “public school”; and
- (c) inserting after “district” in the ninth line “school”.

22. The said Act is amended by adding thereto the following section. s. 66a,
enacted

66a.—(1) Notwithstanding subsections 65 (3) and (8) and section 66, where a district school area is formed under clause 62 (2) Elections
(b), the Lieutenant Governor in Council may make regulations,

- (a) determining the number of members to be elected to the board of the district school area;
- (b) determining the areas each member referred to in clause (a) shall represent;
- (c) providing for the nomination of candidates to be elected; and
- (d) prescribing the manner in which the election of the members shall be conducted,

and the election of the members shall be in accordance with such regulations.

(2) No election under this section is invalid by reason of non-compliance with the provisions of the regulations made under subsection (1) or by reason of any mistake or irregularity if it appears that the election was conducted in accordance with the principles laid down in the regulations and that the non-compliance, mistake or irregularity did not affect the result of the election. Validity
of election

23.—(1) Subsection 68 (1) of the said Act is amended by inserting after “area” in the fourth line “board”. s. 68 (1),
amended

(2) Subsection 68 (2) of the said Act is amended by inserting after “area” in the first line “board”. s. 68 (2),
amended

(3) Subsection 68 (3) of the said Act is amended by inserting after “area” in the fourth line “board”. s. 68 (3),
amended

24. Clause 69 (2) (a) of the said Act is amended by adding at the end thereof “and for the dissolution thereof”. s. 69 (2)(a),
amended

25. Subsection 74 (8) of the said Act is repealed and the following substituted therefor: s. 74 (8),
re-enacted

Allowance

(8) The divisional board may pay an allowance to each member of the committee who is not a member of the divisional board and where the divisional board satisfies the requirements for a special education advisory committee under subsection 182 (7), the board may pay an allowance to each member of the special education advisory committee who is a member of the advisory committee on schools for trainable retarded pupils.

s. 87 (1),
amended

26. Subsection 87 (1) of the said Act is amended by striking out "1st day of January of the following year" in the fifteenth line and inserting in lieu thereof "1st day of December of the same year".

s. 90 (1),
amended

27.—(1) Subsection 90 (1) of the said Act is amended by striking out "for a term of two years" in the third line.

s. 90,
amended

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

Term of
office of
first trustees
R.S.O. 1980,
c. 308

(2a) The trustees who are elected at the first election of an urban separate school board shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected and the new board is organized and sections 93, 94, 95 and 96 apply with necessary modifications to the elections of trustees of the urban separate school board held after the first elections of trustees.

s. 91 (1),
amended

28.—(1) Subsection 91 (1) of the said Act is amended by striking out "for a term of two years" in the fourth line.

s. 91 (2),
amended

(2) Subsection 91 (2) of the said Act is amended by striking out "for a term of two years" in the fourth line.

s. 93 (1),
amended

29. Subsection 93 (1) of the said Act is amended by striking out "in the same manner as municipal elections" in the second and third lines and inserting in lieu thereof "by the same officers and in the same manner as elections of members of the council of a municipality".

s. 95 (b),
re-enacted

30. Clause 95 (b) of the said Act is repealed and the following substituted therefor:

(b) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years; and

s. 97 (1),
re-enacted

31.—(1) Subsection 97 (1) of the said Act is repealed and the following substituted therefor:

Trustees
term of office

(1) The board of a rural separate school shall consist of three trustees who, subject to subsection (3), shall be elected in each year in which a regular election is held under the *Municipal Elec-*

R.S.O. 1980,
c. 308

tions Act and shall hold office until the date the next regular election is held under that Act and their successors are elected under this Act and the new board is organized.

- (2) Subsection 97 (3) of the said Act is repealed and the following substituted therefor: s. 97 (3),
re-enacted

(3) Where the first election of a newly established rural separate school board is held in a year in which no regular election is held under the *Municipal Elections Act*, the trustees so elected shall hold office until the date upon which the next regular election is held under that Act and their successors are elected under this Act and the new board is organized. Idem
R.S.O. 1980,
c. 308

- 32.**—(1) Subclause 98 (1) (a) (ii) of the said Act is repealed and the following substituted therefor: s. 98 (1) (a),
(ii),
re-enacted

(ii) the approval of a site selected by the board for a new school.

- (2) Section 98 of the said Act is amended by adding thereto the following subsection: s. 98,
amended

(3) No site for a new school shall be acquired by a rural separate school board without approval of the site by the majority of the supporters of the rural separate school who are present at an annual or a special meeting of the board. Approval
of new
school site

- 33.** Section 100 of the said Act is amended by adding thereto the following subsection: s. 100,
amended

(10a) A voter is entitled to as many votes as there are trustees to be elected, but may not give more than one vote to any one candidate. Number
of votes

- 34.** Subsection 103 (1) of the said Act is repealed and the following substituted therefor: s. 103 (1),
re-enacted

(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of December following the election of trustees of the combined separate school zone and, subject to the number of trustees being determined under subsection (5), five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone, Trustees

(a) as provided in section 100, where the combined separate school zone is formed, or where another separate school zone is added to or detached from a combined separate school zone in the year next following the year

R.S.O. 1980,
c. 308

in which a regular election was held under the *Municipal Elections Act*, in which case the provisions of section 97 apply; or

(b) as provided in section 93, where the combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone in the year in which a regular election is to be held under the *Municipal Elections Act*.

s. 111 (3),
amended

35. Subsection 111 (3) of the said Act is amended by striking out "The Roman Catholic Separate School Board" in the third and fourth lines and inserting in lieu thereof "The District Roman Catholic Separate School Board".

s. 112 (2),
amended

36.—(1) Subsection 112 (2) of the said Act is amended by inserting after "collecting" in the sixth line "cancelling, reducing or refunding" and by striking out "11" in the twelfth line and inserting in lieu thereof "12".

s. 112,
amended

(2) Section 112 of the said Act is amended by adding thereto the following subsection:

Application of
R.S.O. 1980,
c. 302, s. 362

(2a) Section 362 of the *Municipal Act* applies to territory without municipal organization that is deemed a district municipality under subsection (1), and the district combined separate school board has the powers of a municipal council under the said section 362 in respect of any such territory.

s. 113 (19),
amended

37. Subsection 113 (19) of the said Act is amended by inserting after "may" in the seventh line "where so requested by the board".

s. 115 (3),
repealed

38. Subsection 115 (3) of the said Act is repealed.

s. 149,
amended

39. Section 149 of the said Act is amended by adding thereto the following paragraph:

requirements

18. do anything that a board is required by the Minister to do under subsection 8 (1).

s. 150 (1),
par. 1,
re-enacted

40.—(1) Paragraph 1 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

committees

1. establish committees composed of members of the board to make recommendations to the board in respect of education, finance, personnel and property;

1a. establish committees that may include persons who are not members of the board in respect of matters other than those referred to in paragraph 1. idem

(2) Paragraph 6 of the said subsection 150 (1) is amended by adding at the end thereof "and close schools in accordance with policies established by the board from guidelines issued by the Minister". s. 150 (1),
par. 6,
amended

41. Subsection 153 (2) of the said Act is repealed and the following substituted therefor: s. 153 (2),
re-enacted

(2) A secondary school board may pay to each person appointed under subsection (1) who is not a member of the board such allowance as the board may determine for each month for which he is appointed. Allowance

42. Section 158 of the said Act is amended by adding thereto the following subsection: s. 158,
amended

(1a) Where a sick leave gratuity is paid upon termination of employment, the number of days used to calculate the amount of the gratuity ceases to stand to the credit of the employee and is not available for transfer or reinstatement of credits under subsection (2). Idem

43. Section 164 of the said Act is amended by inserting after "or" in the seventh line "held". s. 164,
amended

44.—(1) Subsection 165 (1) of the said Act is repealed and the following substituted therefor: s. 165 (1),
re-enacted

(1) A board may enter into an agreement with,

(a) the Crown in right of Canada; or

(b) a band or the council of the band or an education authority where such band, the council of the band or education authority is authorized by the Crown in right of Canada to provide education for Indians,

to provide for Indian pupils, for the period specified in the agreement, accommodation, instruction and special services in the schools of the board, and such agreement shall provide for the payment by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, of fees calculated in accordance with the regulation governing the fees payable by Canada.

(1a) A board may enter into an agreement with,

Agreements
re education
of Indian
pupils

Agreements
re instruction
in Indian
schools

(a) the Crown in right of Canada; or

(b) a band, the council of the band or an education authority referred to in clause (1) (b),

to provide for Indian pupils, for the period specified in the agreement, instruction and special services in schools provided by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, and such agreement shall provide for the payment by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, of the full cost of the provision of the instruction and special services.

s. 165 (4),
amended

(2) Subsection 165 (4) of the said Act is amended by,

(a) striking out "Indian" in the second line and where it occurs the first time in the third line; and

(b) inserting after "board" in the fifth line "or in the schools in which the board provides all the instruction".

s. 165 (5),
amended

(3) Subsection 165 (5) of the said Act is amended by striking out "divisional board or a county or district combined separate school" in the second and third lines.

s. 165,
amended

(4) Section 165 of the said Act is amended by adding thereto the following subsection:

When
Indian
school
enrolment
included

(6a) For the purpose of determining the number of Indian pupils enrolled in the schools under the jurisdiction of a board referred to in subsection (5) or (6), the number of Indian pupils in Indian schools in which the board provides all the instruction shall be included.

s. 165a,
enacted

45. The said Act is further amended by adding thereto the following section:

Interpre-
tation

165a.—(1) In this section "adult basic education" means programs and courses that are designed to develop and improve the basic literacy and numeracy skills of adults.

Agreements
for adult
basic
education

(2) Subject to the approval of the Minister, a board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in writing with a college of applied arts and technology for the area in which the board has jurisdiction under which the college of applied arts and technology provides for the board such adult basic education as is specified in the agreement.

46.—(1) Subsection 166 (1) of the said Act is amended by striking out “and to and from an activity that is part of the program of such school” in the twelfth and thirteenth lines. s. 166 (1),
amended

(2) Section 166 of the said Act is amended by adding thereto the following subsection: s. 166,
amended

(1a) A board may provide for a pupil who is enrolled in a school that the board operates, transportation to and from an activity that is part of the program of such school. Idem

(3) Clause 166 (9) (b) of the said Act is amended by inserting after “county” in the first line “or a regional municipality that is not in a territorial district”. s. 166 (9) (b),
amended

47. Subsections 167 (1) and (2) of the said Act are repealed and the following substituted therefor: s. 167 (1, 2),
re-enacted

(1) Subject to subsections (1a), (1c) and (2) a board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof and may pay to the chairman an amount determined by the board that is in addition to the allowance payable to the chairman as a member of the board. Allowance
for members

(1a) Commencing with the board that is organized following the regular election in the year 1982 the allowances payable under subsection (1) shall be those determined by the board prior to the date of the regular election to take effect for the term of office of the members of the board elected at the regular election. Idem

(1b) Where a new board is established or formed under the Act, the members who are elected at the first election of the board may determine the amount of the allowance to be paid to members of the board and the amount of any additional allowance payable to the chairman as a member of the board. Idem

(1c) A board may at any time decrease any allowance payable to the members or to the chairman of the board. Decrease in
allowance

(2) Where allowances have not been determined for the term of office of a new board the existing allowance payable to members of a board or to the chairman of the board during the school year 1981-82 or thereafter on the day of a regular election shall continue to be paid, subject to subsection (1c), until the expiry of the term of office of the members of the board or of the new board, as the case may be, and until allowances as determined by the board under subsection (1a) in respect of the term of office of a new board become payable. Continuance of
allowance

s. 171 (1),
amended

48.—(1) Subsection 171 (1) of the said Act is amended by striking out “Part IV as to the selection of a site by a rural separate school board, every board” in the first, second and third lines and inserting in lieu thereof “section 98 as to the approval of the site of a new school by a rural separate school board, every board may select and”.

s. 171 (6),
amended

(2) Subsection 171 (6) of the said Act is amended by inserting after “172” in the first line “or subsection 173 (1)”.

s. 173 (1, 2),
re-enacted

49.—(1) Subsections 173 (1) and (2) of the said Act are repealed and the following substituted therefor:

Acquisition
of land
for natural
science
program

(1) Where a board acquires a school site under subsection 171 (1), (2), (3) or (4) for the purpose of conducting thereon a natural science program and other out-of-classroom programs, the board shall obtain the approval of the Minister before it erects, adds to or alters buildings on or makes other improvements to the school site for such purpose.

Application

(1a) Subsection (1) does not apply with respect to a school site acquired by a separate school board under subsection 171 (1) or by a county or district combined separate school board under subsection 171 (3) where the cost of the erection of, the addition to or the alteration of the buildings on the school site or of making other improvements to the school site is provided entirely by the separate school board.

Idem

(1b) A board may, with the approval of the Minister, acquire by purchase or lease for the purpose of conducting a natural science program and other out-of-classroom programs a school site in Ontario that it does not have the authority to acquire under section 171, and the board shall obtain the approval of the Minister before it erects, adds to or alters buildings on or makes other improvements to the school site for such purpose.

Approval
not
required

(1c) An approval of the Minister is not required under subsection (1a) or (2) for normal maintenance to a building or site.

Agreement
between
boards

(2) Two or more boards may enter into an agreement for a period specified therein for the shared use of a school site in Ontario for conducting natural science programs and other out-of-classroom programs but, where under such agreement one of the boards may acquire or is to acquire by purchase or lease a school site for such purpose or is to erect, add to or alter a building on or make other improvements to such site, the agreement is not effective until it is approved by the Minister, and a school site situate outside the jurisdiction of the boards that are parties to the agreement shall not be acquired without the prior approval of the Minister.

- (2) Subsection 173 (3) of the said Act is amended by striking out “under subsection (1) or (2)” in the first line and inserting in lieu thereof “for the purpose of conducting a natural science program and other out-of-classroom programs”. s. 173 (3),
amended

- 50.** Subsection 182 (9) of the said Act is repealed and the following substituted therefor: s. 182 (9),
re-enacted

(9) Subsection 74 (7) and sections 75 and 76 apply with necessary modifications to a committee established under subsection (2). Application
of ss. 74 (7),
75 and 76

- 51.** Subsection 183 (1) of the said Act is repealed and the following substituted therefor: s. 183 (1),
re-enacted

(1) The meetings of a board and, subject to subsection (1a), meetings of a committee of the board, including a committee of the whole board, shall be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct. Open
meetings
of boards

(1a) A meeting of a committee of a board, including a committee of the whole board, may be closed to the public when the subject-matter under consideration involves, Closing
of certain
committee
meetings

(a) the security of the property of the board;

(b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or his parent or guardian;

(c) the acquisition or disposal of a school site;

(d) decisions in respect of negotiations with employees of the board; or

(e) litigation affecting the board.

- 52.** Paragraph 2 of the Declaration to subsection 185 (1) of the said Act is amended by adding at the end thereof “and that I will disclose any pecuniary interest, direct or indirect, as required by and in accordance with the *Municipal Conflict of Interest Act*”. s. 185 (1),
amended

R.S.O. 1980,
c. 305

- 53.** Section 196 of the said Act is amended by adding thereto the following subsection: s. 196,
amended

(1a) A person who is an elector, as defined in the *Municipal Elections Act* in respect of an area for which one or more members of a board are to be elected, is qualified to be elected as a member of the board for any area within the jurisdiction of the board, Idem
R.S.O. 1980,
c. 308

(a) by public school electors if he is a public school elector in the area in which he is an elector; or

(b) by separate school electors if he is a separate school elector in the area in which he is an elector,

if such person is otherwise qualified under subsection (1) and is not disqualified under subsection (2).

s. 198 (2) (b),
amended

54. Clause 198 (2) (b) of the said Act is amended by striking out "the third year of the Intermediate Division" in the eighth line and inserting in lieu thereof "Grade 9".

s. 204,
amended

55. Section 204 of the said Act is amended by adding thereto the following subsection:

Interim
administration
pending new
elections
R.S.O. 1980,
c. 308

(2) Where under this Act vacancies on a board are required to be filled by an election to be conducted under the *Municipal Elections Act* and no election can be held under that Act, the Minister may by order provide for the fulfilling of the duties and obligations of the board until such time as a new election is held in accordance with the *Municipal Elections Act* and the members so elected have taken office.

s. 207 (1),
re-enacted

56. Subsection 207 (1) of the said Act is repealed and the following substituted therefor:

Appointment
and dismissal
of auditor

(1) Every board shall appoint an auditor who shall hold office during good behaviour and be removable by the board for cause and who, except in the case of a board established under section 70, shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

s. 216 (2),
amended

57. Subsection 216 (2) of the said Act is amended by striking out "where otherwise provided in the Act under which the sum is collected" in the fifth and sixth lines and inserting in lieu thereof "as provided in subsection 34 (3) of the *Assessment Act*".

R.S.O. 1980,
c. 31

s. 235 (1),
amended

58. Subsection 235 (1) of the said Act is amended by inserting after "teacher" in the first line "and a temporary teacher".

s. 253,
amended

59. Section 253 of the said Act is amended by adding thereto the following subsection:

General
report of
chief
executive
officer

(3) At the first meeting in December of each year the chief executive officer of a board shall submit to the board a report in a format approved by the Minister on the action he has taken during the preceding 12 months under subsection (2) and a copy of such report shall be submitted to the Minister on or before the 31st day of January next following.

- 60.** Section 256 of the said Act is amended by adding thereto the following subsection: s. 256,
amended

(5) A provincial supervisory officer or a person designated by the Minister shall have access, as required by the Minister, to any school and to the books and records of a board or a school. Access to
books and
records,
etc.

- 61.** Subsection 258 (2) of the said Act is amended by inserting after "Where" in the first line "on or". s. 258 (2),
amended

- 62.** Subsection 261 (2) of the said Act is amended by inserting after "Where" in the first line "on or". s. 261 (2),
amended

- 63.**—(1) Section 262 of the said Act is amended by adding thereto the following subsection: s. 262,
amended

(3a) Section 206 applies with necessary modifications to a member of a committee under clause (2) (b). Application
of s. 206

(2) Subsection 262 (4) of the said Act is amended by adding at the end thereof "and his successor is appointed or elected, as the case may be". s. 262 (4),
amended

- 64.** Section 263 of the said Act is amended by adding thereto the following subsection: s. 263,
amended

(2) The members of the committee to be appointed by the board shall be appointed not later than the date of the election meeting referred to in subsection (1). Idem

- 65.** Section 266 of the said Act is amended by adding thereto the following subsection: s. 266,
amended

(2) Subsection 197 (3) applies with necessary modifications to the resignation of a member of a committee. Application of
s. 197 (3)

- 66.** Subsection 270 (1) of the said Act is repealed and the following substituted therefor: s. 270 (1),
re-enacted

(1) Where a board has determined to pay an allowance to members of the board under subsection 167 (1), the board shall pay to each member of the committee who is not a member of the board an allowance in such amount as is determined by the board. Allowance

- 67.** Subsection 275 (2) of the said Act is repealed and the following substituted therefor: s. 275 (2),
re-enacted

(2) Members of the Commission shall hold office for a term of one, two or three years as may be determined from time to time Term,
reappoint-
ment and
remunera-
tion

by the Lieutenant Governor in Council, may be reappointed and shall be paid such remuneration as is determined by the Lieutenant Governor in Council.

Commence-
ment

68.—(1) This Act, except subsection 40 (2), comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 40 (2) comes into force on the 1st day of January, 1983.

Short title

69. The short title of this Act is the *Education Amendment Act, 1982*.

An Act to amend the Education Act

1st Reading

April 8th, 1982

2nd Reading

June 23rd, 1982

3rd Reading

THE HON. B. M. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

*(Reprinted as amended by the Committee
of the Whole House)*

BILL 46

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Education Act

THE HON. B. M. STEPHENSON
Minister of Education and Minister of Colleges and Universities

BILL 46

1982

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs: s. 1 (1),
amended

2a. “band” and “council of the band” have the same meaning as in the *Indian Act* (Canada);

R.S.C. 1970,
c. I-6

10a. “credit” means recognition granted to a pupil by a principal as *prima facie* evidence that the pupil has successfully completed a quantity of work that,

i. has been specified by the principal in accordance with the requirements of the Minister, and

ii. is acceptable to the Minister as partial fulfilment of the requirements for the Secondary School Graduation Diploma or the Secondary School Honour Graduation Diploma, as the case may be;

19a. “education authority” means a corporation that is incorporated by two or more bands or councils of bands for the purpose of providing for the educational needs of the members of such bands;

R.S.C. 1970,
c. I-6

23a. "Indian" has the same meaning as in the *Indian Act* (Canada).

s. 1 (1),
par. 66,
amended

(2) Paragraph 66 of the said subsection 1 (1) is amended by inserting after "qualification" in the second line "or a letter of standing".

s. 1,
amended

(3) Section 1 of the said Act is amended by adding thereto the following subsection:

Existing
school
arrangements
continued

(5) Until altered under the authority of this or any other Act, all school jurisdictions and boards, including the names of the boards, as they existed on the 31st day of July, 1981, are continued subject to the provisions of this Act.

s. 2,
amended

2. Section 2 of the said Act is amended by adding thereto the following subsections:

Delegation
of powers
and duties

(4) The Minister may in writing authorize the Deputy Minister or any other officer or employee in the Ministry to exercise any power or perform any duty that is granted to or vested in the Minister under this or any other Act.

Limitations

(5) The Minister may in writing limit an authorization made under subsection (4) in such manner as he considers advisable.

Application of
R.S.O. 1980,
c. 147, s. 6

(6) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under an authorization made under subsection (4).

s. 8 (1) (i),
re-enacted

3.—(1) Clause 8 (1) (i) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 539

(i) prescribe the conditions under which and the terms upon which pupils of boards shall be deemed to be employees for the purpose of coverage under the *Workmen's Compensation Act*, deem pupils to be employees for such purpose and require a board to reimburse Ontario for payments made by Ontario under that Act in respect of a pupil of the board deemed to be an employee of Ontario by the Minister.

s. 8 (1) (m),
amended

(2) Clause 8 (1) (m) of the said Act is amended by striking out "interim, temporary, permanent, special or other" in the first and second lines.

s. 8 (1) (p),
amended

(3) Clause 8 (1) (p) of the said Act is amended by striking out "and supervisory officers" in the second line and inserting in lieu thereof "supervisory officers, attendance counsellors and

native counsellors and grant certificates in respect of the successful completion of such courses”.

- (4) Clause 8 (1) (r) of the said Act is amended by adding at the end thereof “and the granting of bursaries to teachers”. s. 8 (1) (r),
amended

- (5) Subsection 8 (1) of the said Act is amended by adding thereto the following clause: s. 8 (1),
amended

(z) in respect of schools under the jurisdiction of a board, issue guidelines respecting the closing of schools and require that boards develop policies therefrom with respect to procedures to be followed prior to the closing of a school by decision of the board.

- 4.—**(1) Paragraph 11 of subsection 10 (1) of the said Act is amended by striking out “permanent, temporary, interim, special and other” in the second line. s. 10 (1),
par. 11,
amended

- (2) The said subsection 10 (1) is amended by adding thereto the following paragraph: s. 10 (1),
amended

11a. providing for the issuing of teacher’s qualifications record cards and governing the professional qualifications that may be recorded on such record cards. teacher’s
quali-
fications
record cards

- (3) Paragraph 24 of the said subsection 10 (1) is amended by striking out “bursars, matrons” in the fourth line and inserting in lieu thereof “residence counsellors”. s. 10 (1),
par. 24,
amended

- (4) The said subsection 10 (1) is further amended by adding thereto the following paragraph: s. 10 (1),
amended

33. Notwithstanding paragraph 26 of subsection 150 (1), prohibiting or regulating and controlling any program or activity of a board that is or may be in competition with any business or occupation in the private sector and providing that such regulations have general application or application to a particular board. competition
with
private
sector

- (5) Clause 10 (8) (b) of the said Act is amended by striking out “and letters of standing” in the second and third lines and inserting in lieu thereof “letters of standing and Ontario Teacher’s Qualifications Record Cards”. s. 10 (8) (b),
amended

- 5.—**(1) Subsection 11 (2) of the said Act is amended by striking out “as defined in that Act” in the fifth line. s. 11 (2),
amended

- (2) Section 11 of the said Act is amended by adding thereto the following subsection: s. 11,
amended

(2a) The Crown in right of Ontario, represented by the Minister, may enter into an agreement with a band, the council Non-Indian
pupils at
Indian
schools

of the band or an education authority where such band, council of the band or education authority is authorized by the Crown in right of Canada to provide education for Indians, for the admission of pupils who are not Indians to a school operated by the band, council of the band or education authority.

s. 12 (6) (g),
amended

- 6.** Clause 12 (6) (g) of the said Act is amended by striking out "bur-sar" in the second line and inserting in lieu thereof "business administrator".

s. 25 (1),
amended

- 7.** Subsection 25 (1) of the said Act is amended by striking out "with-out a warrant" in the eighth line.

s. 29 (2),
amended

- 8.** Subsection 29 (2) of the said Act is amended by inserting after "may" in the first line "in addition to or".

s. 30 (1),
amended

- 9.** Subsection 30 (1) of the said Act is amended by adding at the end thereof "or the Unified Family Court".

s. 31 (2),
amended

- 10.** Subsection 31 (2) of the said Act is amended by inserting after "Part" in the first line "except subsection 48 (6)".

s. 40 (1) (c),
amended

- 11.** Clause 40 (1) (c) of the said Act is amended by inserting after "course" in the seventh line "or college of applied arts and technology".

s. 48,
amended

- 12.** Section 48 of the said Act is amended by adding thereto the following subsection:

(6) Notwithstanding any other provision of this Act, where a board admits to a school that it operates, a person who is in Canada as a visitor or as a student under the *Immigration Act*, 1976 (Canada), except,

(a) a participant in an educational exchange program under which a pupil of the board attends without fee a school outside Canada;

(b) a pupil who enrolls in an elementary school or a secondary school prior to the 1st day of July, 1982; or

(c) a person who is in Canada while his parent or the person who has lawful custody of him is in Canada on a work visa, a diplomatic visa or a ministerial permit,

the board shall charge the person the maximum fee calculated in accordance with the regulations.

s. 52 (3),
amended

- 13.** Subsection 52 (3) of the said Act is amended by adding at the end thereof "unless and until it becomes or is included in a municipality".

14.—(1) Subsection 53 (1) of the said Act is amended by inserting after “collecting” in the seventh line “cancelling, reducing or refunding” and by striking out “11” in the thirteenth line and inserting in lieu thereof “12”. s. 53 (1),
amended

(2) Section 53 of the said Act is amended by adding thereto the following subsection: s. 53,
amended

(2a) Section 362 of the *Municipal Act* applies to territory without municipal organization that is deemed a district municipality under this Act, and the divisional board has the powers of a municipal council under the said section 362 in respect of any such territory that is not attached to a municipality for school purposes, and the council of the municipality to which any such territory is attached for public school purposes and for secondary school purposes under subsection (2) has the powers of a municipal council under the said section 362 in respect of the territory so attached. Application of
R.S.O. 1980,
c. 302, s. 362

15.—(1) Clause 54 (1) (b) of the said Act is repealed. s. 54 (1) (b),
repealed

(2) Clause 54 (1) (c) of the said Act is amended by striking out “school section” in the first and second lines and inserting in lieu thereof “of a school section that is included in a school division”. s. 54 (1) (c),
amended

(3) Subsection 54 (6) of the said Act is amended by striking out “(inserting the name assigned by the regulations)” in the seventh and eighth lines and inserting in lieu thereof “(inserting the name selected by the board and approved by the Minister)”. s. 54 (6),
amended

16.—(1) Subsection 59 (23) of the said Act is amended by inserting after “may” in the eighth line “where so requested by the divisional board”. s. 59 (23),
amended

(2) Subsection 59 (34) of the said Act is repealed. s. 59 (34),
repealed

17. Subsection 61 (2) of the said Act is repealed and the following substituted therefor: s. 61 (2),
re-enacted

(2) Subsection 59 (32) applies with necessary modifications to the nomination and election of candidates for members of a board of education. Qualifications
for nominators
of candidates

18. Subsection 62 (2) of the said Act is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d), and by adding thereto the following clause: s. 62 (2),
amended

(e) detach a portion thereof from a district school area.

s. 64 (5),
re-enacted

19. Subsection 64 (5) of the said Act is repealed and the following substituted therefor:

Election
year end
term of office
R.S.O. 1980,
c. 308

(5) The election of members of the board of a district school area that is not an improvement district shall be held in each year in which a regular election is held under the *Municipal Elections Act* and the members shall hold office until the next regular election is held under that Act and their successors are elected under this Act and the new board is organized except that,

(a) where a new district school area is formed to take effect on the 1st day of January in a year that is not a year of a regular election under the *Municipal Elections Act*, the first members of such board shall be elected in the year preceding such 1st day of January and shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized; or

(b) where the boundaries of a district school area are altered to take effect on the 1st day of January in a year that is not a year in which a regular election is held under the *Municipal Elections Act*, a new district school area board shall be elected in the year preceding such 1st day of January and the members so elected shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized.

s. 65 (1),
amended

20.—(1) Subsection 65 (1) of the said Act is amended by inserting after “66” in the first line “and subject to subsection (4),”.

s. 65 (4),
re-enacted

(2) Subsection 65 (4) of the said Act is repealed and the following substituted therefor:

First
meeting

(4) Notwithstanding subsection 64 (5), the first meeting for the election of a board of a district school area formed or altered under subsection 62 (2) shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting and the persons so elected shall hold office until the date the next regular election is held under the *Municipal Elections Act* and their successors are elected under this Act and the new board is organized.

R.S.O. 1980,
c. 308

s. 65 (8),
amended

(3) Subsection 65 (8) of the said Act is amended by inserting after “(9)” in the first line “(10a)”.

s. 66 (1),
amended

21. Subsection 66 (1) of the said Act is amended by,

- (a) inserting after “the” in the third line “public school”;
- (b) inserting after “the” where it occurs the first time in the seventh line “public school”; and
- (c) inserting after “district” in the ninth line “school”.

22. The said Act is amended by adding thereto the following section. s. 66a,
enacted

66a.—(1) Notwithstanding subsections 65 (3) and (8) and section 66, where a district school area is formed under clause 62 (2) Elections
(b), the Lieutenant Governor in Council may make regulations,

- (a) determining the number of members to be elected to the board of the district school area;
- (b) determining the areas each member referred to in clause (a) shall represent;
- (c) providing for the nomination of candidates to be elected; and
- (d) prescribing the manner in which the election of the members shall be conducted,

and the election of the members shall be in accordance with such regulations.

(2) No election under this section is invalid by reason of non-compliance with the provisions of the regulations made under subsection (1) or by reason of any mistake or irregularity if it appears that the election was conducted in accordance with the principles laid down in the regulations and that the non-compliance, mistake or irregularity did not affect the result of the election. Validity
of election

23.—(1) Subsection 68 (1) of the said Act is amended by inserting after s. 68 (1),
amended
“area” in the fourth line “board”.

(2) Subsection 68 (2) of the said Act is amended by inserting after s. 68 (2),
amended
“area” in the first line “board”.

(3) Subsection 68 (3) of the said Act is amended by inserting after s. 68 (3),
amended
“area” in the fourth line “board”.

24. Clause 69 (2) (a) of the said Act is amended by adding at the end thereof “and for the dissolution thereof”. s. 69 (2)(a),
amended

25. Subsection 74 (8) of the said Act is repealed and the following substituted therefor: s. 74 (8),
re-enacted

Allowance

(8) The divisional board may pay an allowance to each member of the committee who is not a member of the divisional board and where the divisional board satisfies the requirements for a special education advisory committee under subsection 182 (7), the board may pay an allowance to each member of the special education advisory committee who is a member of the advisory committee on schools for trainable retarded pupils.

s. 87 (1),
amended

26. Subsection 87 (1) of the said Act is amended by striking out "1st day of January of the following year" in the fifteenth line and inserting in lieu thereof "1st day of December of the same year".

s. 90 (1),
amended

27.—(1) Subsection 90 (1) of the said Act is amended by striking out "for a term of two years" in the third line.

s. 90,
amended

(2) Section 90 of the said Act is amended by adding thereto the following subsection:

Term of
office of
first trustees
R.S.O. 1980,
c. 308

(2a) The trustees who are elected at the first election of an urban separate school board shall hold office until the next regular election is held under the *Municipal Elections Act* and their successors are elected and the new board is organized and sections 93, 94, 95 and 96 apply with necessary modifications to the elections of trustees of the urban separate school board held after the first elections of trustees.

s. 91 (1),
amended

28.—(1) Subsection 91 (1) of the said Act is amended by striking out "for a term of two years" in the fourth line.

s. 91 (2),
amended

(2) Subsection 91 (2) of the said Act is amended by striking out "for a term of two years" in the fourth line.

s. 93 (1),
amended

29. Subsection 93 (1) of the said Act is amended by striking out "in the same manner as municipal elections" in the second and third lines and inserting in lieu thereof "by the same officers and in the same manner as elections of members of the council of a municipality".

s. 95 (b),
re-enacted

30. Clause 95 (b) of the said Act is repealed and the following substituted therefor:

(b) has attained the age of eighteen years or on or before polling day will attain the age of eighteen years; and

s. 97 (1),
re-enacted

31.—(1) Subsection 97 (1) of the said Act is repealed and the following substituted therefor:

Trustees
term of office

(1) The board of a rural separate school shall consist of three trustees who, subject to subsection (3), shall be elected in each year in which a regular election is held under the *Municipal Elec-*

R.S.O. 1980,
c. 308

tions Act and shall hold office until the date the next regular election is held under that Act and their successors are elected under this Act and the new board is organized.

- (2) Subsection 97 (3) of the said Act is repealed and the following substituted therefor: s. 97 (3), re-enacted

(3) Where the first election of a newly established rural separate school board is held in a year in which no regular election is held under the *Municipal Elections Act*, the trustees so elected shall hold office until the date upon which the next regular election is held under that Act and their successors are elected under this Act and the new board is organized. Idem R.S.O. 1980, c. 308

- 32.—**(1) Subclause 98 (1) (a) (ii) of the said Act is repealed and the following substituted therefor: s. 98 (1) (a), (ii), re-enacted

(ii) the approval of a site selected by the board for a new school.

- (2) Section 98 of the said Act is amended by adding thereto the following subsection: s. 98, amended

(3) No site for a new school shall be acquired by a rural separate school board without approval of the site by the majority of the supporters of the rural separate school who are present at an annual or a special meeting of the board. Approval of new school site

- 33.** Section 100 of the said Act is amended by adding thereto the following subsection: s. 100, amended

(10a) A voter is entitled to as many votes as there are trustees to be elected, but may not give more than one vote to any one candidate. Number of votes

- 34.** Subsection 103 (1) of the said Act is repealed and the following substituted therefor: s. 103 (1), re-enacted

(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of December following the election of trustees of the combined separate school zone and, subject to the number of trustees being determined under subsection (5), five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone, Trustees

(a) as provided in section 100, where the combined separate school zone is formed, or where another separate school zone is added to or detached from a combined separate school zone in the year next following the year

R.S.O. 1980,
c. 308

in which a regular election was held under the *Municipal Elections Act*, in which case the provisions of section 97 apply; or

- (b) as provided in section 93, where the combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone in the year in which a regular election is to be held under the *Municipal Elections Act*.

s. 111 (3),
amended

- 35.** Subsection 111 (3) of the said Act is amended by striking out "The Roman Catholic Separate School Board" in the third and fourth lines and inserting in lieu thereof "The District Roman Catholic Separate School Board".

s. 112 (2),
amended

- 36.—**(1) Subsection 112 (2) of the said Act is amended by inserting after "collecting" in the sixth line "cancelling, reducing or refunding" and by striking out "11" in the twelfth line and inserting in lieu thereof "12".

s. 112,
amended

- (2) Section 112 of the said Act is amended by adding thereto the following subsection:

Application of
R.S.O. 1980,
c. 302, s. 362

(2a) Section 362 of the *Municipal Act* applies to territory without municipal organization that is deemed a district municipality under subsection (1), and the district combined separate school board has the powers of a municipal council under the said section 362 in respect of any such territory.

s. 113 (19),
amended

- 37.** Subsection 113 (19) of the said Act is amended by inserting after "may" in the seventh line "where so requested by the board".

s. 115 (3),
repealed

- 38.** Subsection 115 (3) of the said Act is repealed.

s. 149,
amended

- 39.** Section 149 of the said Act is amended by adding thereto the following paragraph:

requirements

18. do anything that a board is required by the Minister to do under subsection 8 (1).

s. 150 (1),
par. 1,
re-enacted

- 40.—**(1) Paragraph 1 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

committees

1. establish committees composed of members of the board to make recommendations to the board in respect of education, finance, personnel and property;

1a. establish committees that may include persons who are idem
not members of the board in respect of matters other
than those referred to in paragraph 1.

(2) Paragraph 6 of the said subsection 150 (1) is amended by s. 150 (1),
par. 6,
amended
adding at the end thereof "and close schools in accordance
with policies established by the board from guidelines issued
by the Minister".

41. Subsection 153 (2) of the said Act is repealed and the following s. 153 (2),
re-enacted
substituted therefor:

(2) A secondary school board may pay to each person Allowance
appointed under subsection (1) who is not a member of the
board such allowance as the board may determine for each
month for which he is appointed.

42. Section 158 of the said Act is amended by adding thereto the s. 158,
amended
following subsection:

(1a) Where a sick leave gratuity is paid upon termination of Idem
employment, the number of days used to calculate the amount of
the gratuity ceases to stand to the credit of the employee and is
not available for transfer or reinstatement of credits under sub-
section (2).

43. Section 164 of the said Act is amended by inserting after "or" in the s. 164,
amended
seventh line "held".

44.—(1) Subsection 165 (1) of the said Act is repealed and the follow- s. 165 (1),
re-enacted
ing substituted therefor:

(1) A board may enter into an agreement with,

(a) the Crown in right of Canada; or

(b) a band or the council of the band or an education
authority where such band, the council of the band or
education authority is authorized by the Crown in right
of Canada to provide education for Indians,

to provide for Indian pupils, for the period specified in the
agreement, accommodation, instruction and special services in
the schools of the board, and such agreement shall provide for
the payment by the Crown in right of Canada, the band, the
council of the band or the education authority, as the case may
be, of fees calculated in accordance with the regulation govern-
ing the fees payable by Canada.

(1a) A board may enter into an agreement with,

Agreements
re education
of Indian
pupils

Agreements
re instruction
in Indian
schools

(a) the Crown in right of Canada; or

(b) a band, the council of the band or an education authority referred to in clause (1) (b),

to provide for Indian pupils, for the period specified in the agreement, instruction and special services in schools provided by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, and such agreement shall provide for the payment by the Crown in right of Canada, the band, the council of the band or the education authority, as the case may be, of the full cost of the provision of the instruction and special services.

s. 165 (4),
amended

(2) Subsection 165 (4) of the said Act is amended by,

(a) striking out "Indian" in the second line and where it occurs the first time in the third line; and

(b) inserting after "board" in the fifth line "or in the schools in which the board provides all the instruction".

s. 165 (5),
amended

(3) Subsection 165 (5) of the said Act is amended by striking out "divisional board or a county or district combined separate school" in the second and third lines.

s. 165,
amended

(4) Section 165 of the said Act is amended by adding thereto the following subsection:

When
Indian
school
enrolment
included

(6a) For the purpose of determining the number of Indian pupils enrolled in the schools under the jurisdiction of a board referred to in subsection (5) or (6), the number of Indian pupils in Indian schools in which the board provides all the instruction shall be included.

s. 165a,
enacted

45. The said Act is further amended by adding thereto the following section:

Interpre-
tation

165a.—(1) In this section "adult basic education" means programs and courses that are designed to develop and improve the basic literacy and numeracy skills of adults.

Agreements
for adult
basic
education

(2) Subject to the approval of the Minister, a board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in writing with a college of applied arts and technology for the area in which the board has jurisdiction under which the college of applied arts and technology provides for the board such adult basic education as is specified in the agreement.

46.—(1) Subsection 166 (1) of the said Act is amended by striking out “and to and from an activity that is part of the program of such school” in the twelfth and thirteenth lines. s. 166 (1),
amended

(2) Section 166 of the said Act is amended by adding thereto the following subsection: s. 166,
amended

(1a) A board may provide for a pupil who is enrolled in a school that the board operates, transportation to and from an activity that is part of the program of such school. Idem

(3) Clause 166 (9) (b) of the said Act is amended by inserting after “county” in the first line “or a regional municipality that is not in a territorial district”. s. 166 (9) (b),
amended

47. Subsections 167 (1) and (2) of the said Act are repealed and the following substituted therefor: s. 167 (1, 2),
re-enacted

(1) Subject to subsections (1a), (1c) and (2) a board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof and may pay to the chairman an amount determined by the board that is in addition to the allowance payable to the chairman as a member of the board. Allowance
for members

(1a) Commencing with the board that is organized following the regular election in the year 1982 the allowances payable under subsection (1) shall be those determined by the board prior to the date of the regular election to take effect for the term of office of the members of the board elected at the regular election. Idem

(1b) Where a new board is established or formed under the Act, the members who are elected at the first election of the board may determine the amount of the allowance to be paid to members of the board and the amount of any additional allowance payable to the chairman as a member of the board. Idem

(1c) A board may at any time decrease any allowance payable to the members or to the chairman of the board. Decrease in
allowance

(2) Where allowances have not been determined for the term of office of a new board the existing allowance payable to members of a board or to the chairman of the board during the school year 1981-82 or thereafter on the day of a regular election shall continue to be paid, subject to subsection (1c), until the expiry of the term of office of the members of the board or of the new board, as the case may be, and until allowances as determined by the board under subsection (1a) in respect of the term of office of a new board become payable. Continuance of
allowance

s. 171 (1),
amended

48.—(1) Subsection 171 (1) of the said Act is amended by striking out “Part IV as to the selection of a site by a rural separate school board, every board” in the first, second and third lines and inserting in lieu thereof “section 98 as to the approval of the site of a new school by a rural separate school board, every board may select and”.

s. 171 (6),
amended

(2) Subsection 171 (6) of the said Act is amended by inserting after “172” in the first line “or subsection 173 (1)”.

s. 173 (1, 2),
re-enacted

49.—(1) Subsections 173 (1) and (2) of the said Act are repealed and the following substituted therefor:

Acquisition
of land
for natural
science
program

(1) Where a board acquires a school site under subsection 171 (1), (2), (3) or (4) for the purpose of conducting thereon a natural science program and other out-of-classroom programs, the board shall obtain the approval of the Minister before it erects, adds to or alters buildings on or makes other improvements to the school site for such purpose.

Application

(1a) Subsection (1) does not apply with respect to a school site acquired by a separate school board under subsection 171 (1) or by a county or district combined separate school board under subsection 171 (3) where the cost of the erection of, the addition to or the alteration of the buildings on the school site or of making other improvements to the school site is provided entirely by the separate school board.

Idem

(1b) A board may, with the approval of the Minister, acquire by purchase or lease for the purpose of conducting a natural science program and other out-of-classroom programs a school site in Ontario that it does not have the authority to acquire under section 171, and the board shall obtain the approval of the Minister before it erects, adds to or alters buildings on or makes other improvements to the school site for such purpose.

Approval
not
required

(1c) An approval of the Minister is not required under subsection (1a) or (2) for normal maintenance to a building or site.

Agreement
between
boards

(2) Two or more boards may enter into an agreement for a period specified therein for the shared use of a school site in Ontario for conducting natural science programs and other out-of-classroom programs but, where under such agreement one of the boards may acquire or is to acquire by purchase or lease a school site for such purpose or is to erect, add to or alter a building on or make other improvements to such site, the agreement is not effective until it is approved by the Minister, and a school site situate outside the jurisdiction of the boards that are parties to the agreement shall not be acquired without the prior approval of the Minister.

- (2) Subsection 173 (3) of the said Act is amended by striking out “under subsection (1) or (2)” in the first line and inserting in lieu thereof “for the purpose of conducting a natural science program and other out-of-classroom programs”. s. 173 (3),
amended

- 50.** Subsection 182 (9) of the said Act is repealed and the following substituted therefor: s. 182 (9),
re-enacted

(9) Subsection 74 (7) and sections 75 and 76 apply with necessary modifications to a committee established under subsection (2). Application
of ss. 74 (7),
75 and 76

- 51.** Subsection 183 (1) of the said Act is repealed and the following substituted therefor: s. 183 (1),
re-enacted

(1) The meetings of a board and, subject to subsection (1a), meetings of a committee of the board, including a committee of the whole board, shall be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct. Open
meetings
of boards

(1a) A meeting of a committee of a board, including a committee of the whole board, may be closed to the public when the subject-matter under consideration involves, Closing
of certain
committee
meetings

(a) the security of the property of the board;

(b) the disclosure of intimate, personal or financial information in respect of a member of the board or committee, an employee or prospective employee of the board or a pupil or his parent or guardian;

(c) the acquisition or disposal of a school site;

(d) decisions in respect of negotiations with employees of the board; or

(e) litigation affecting the board.

- 52.** Paragraph 2 of the Declaration to subsection 185 (1) of the said Act is amended by adding at the end thereof “and that I will disclose any pecuniary interest, direct or indirect, as required by and in accordance with the *Municipal Conflict of Interest Act*”. s. 185 (1),
amended

R.S.O. 1980,
c. 305

- 53.** Section 196 of the said Act is amended by adding thereto the following subsection: s. 196,
amended

(1a) A person who is an elector, as defined in the *Municipal Elections Act* in respect of an area for which one or more members of a board are to be elected, is qualified to be elected as a member of the board for any area within the jurisdiction of the board, Idem
R.S.O. 1980,
c. 308

(a) by public school electors if he is a public school elector in the area in which he is an elector; or

(b) by separate school electors if he is a separate school elector in the area in which he is an elector,

if such person is otherwise qualified under subsection (1) and is not disqualified under subsection (2).

s. 198 (2) (b),
amended

54. Clause 198 (2) (b) of the said Act is amended by striking out "the third year of the Intermediate Division" in the eighth line and inserting in lieu thereof "Grade 9".

s. 204,
amended

55. Section 204 of the said Act is amended by adding thereto the following subsection:

Interim
administration
pending new
elections
R.S.O. 1980,
c. 308

(2) Where under this Act vacancies on a board are required to be filled by an election to be conducted under the *Municipal Elections Act* and no election can be held under that Act, the Minister may by order provide for the fulfilling of the duties and obligations of the board until such time as a new election is held in accordance with the *Municipal Elections Act* and the members so elected have taken office.

s. 207 (1),
re-enacted

56. Subsection 207 (1) of the said Act is repealed and the following substituted therefor:

Appointment
and dismissal
of auditor

(1) Every board shall appoint an auditor who shall hold office during good behaviour and be removable by the board for cause and who, except in the case of a board established under section 70, shall be a person licensed as a municipal auditor under the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

s. 216 (2),
amended

57. Subsection 216 (2) of the said Act is amended by striking out "where otherwise provided in the Act under which the sum is collected" in the fifth and sixth lines and inserting in lieu thereof "as provided in subsection 34 (3) of the *Assessment Act*".

R.S.O. 1980,
c. 31

s. 235 (1),
amended

58. Subsection 235 (1) of the said Act is amended by inserting after "teacher" in the first line "and a temporary teacher".

s. 253,
amended

59. Section 253 of the said Act is amended by adding thereto the following subsection:

General
report of
chief
executive
officer

(3) At the first meeting in December of each year the chief executive officer of a board shall submit to the board a report in a format approved by the Minister on the action he has taken during the preceding 12 months under subsection (2) and a copy of such report shall be submitted to the Minister on or before the 31st day of January next following.

- 60.** Section 256 of the said Act is amended by adding thereto the following subsection: s. 256,
amended

(5) A provincial supervisory officer or a person designated by the Minister shall have access, as required by the Minister, to any school and to the books and records of a board or a school. Access to
books and
records,
etc.

- 61.** Subsection 258 (2) of the said Act is amended by inserting after "Where" in the first line "on or". s. 258 (2),
amended

- 62.** Subsection 261 (2) of the said Act is amended by inserting after "Where" in the first line "on or". s. 261 (2),
amended

- 63.—**(1) Section 262 of the said Act is amended by adding thereto the following subsection: s. 262,
amended

(3a) Section 206 applies with necessary modifications to a member of a committee under clause (2) (b). Application
of s. 206

(2) Subsection 262 (4) of the said Act is amended by adding at the end thereof "and his successor is appointed or elected, as the case may be". s. 262 (4),
amended

- 64.** Section 263 of the said Act is amended by adding thereto the following subsection: s. 263,
amended

(2) The members of the committee to be appointed by the board shall be appointed not later than the date of the election meeting referred to in subsection (1). Idem

- 65.** Section 266 of the said Act is amended by adding thereto the following subsection: s. 266,
amended

(2) Subsection 197 (3) applies with necessary modifications to the resignation of a member of a committee. Application of
s. 197 (3)

- 66.** Subsection 270 (1) of the said Act is repealed and the following substituted therefor: s. 270 (1),
re-enacted

(1) Where a board has determined to pay an allowance to members of the board under subsection 167 (1), the board shall pay to each member of the committee who is not a member of the board an allowance in such amount as is determined by the board. Allowance

- 67.** Subsection 275 (2) of the said Act is repealed and the following substituted therefor: s. 275 (2),
re-enacted

(2) Members of the Commission shall hold office for a term of one, two or three years as may be determined from time to time Term,
reappoint-
ment and
remunera-
tion

by the Lieutenant Governor in Council, may be reappointed and shall be paid such remuneration as is determined by the Lieutenant Governor in Council.

Commence-
ment

68.—(1) This Act, except subsection 40 (2), comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 40 (2) comes into force on the 1st day of January, 1983.

Short title

69. The short title of this Act is the *Education Amendment Act, 1982*.

An Act to amend the Education Act

1st Reading

April 8th, 1982

2nd Reading

June 23rd, 1982

3rd Reading

July 6th, 1982

THE HON. B. M. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Farm Products Marketing Act

MR. RIDDELL

EXPLANATORY NOTE

The purpose of the Bill is to prohibit unfair practices in the marketing of farm products in Ontario. These unfair practices include the arrangement of price advantages in the form of rebates, discounts or allowances between some sellers of a farm product and some buyers of the farm product to the exclusion of other buyers and sellers of the same product. The effect of these practices is to work hardship upon the buyers and sellers who are excluded from these arrangements and eventually to reduce the level of competition in the market for the farm product.

Provision is made in the Bill for orders for compliance, assurances of voluntary compliance and enforcement of orders and assurances.

BILL 47

1982

An Act to amend the Farm Products Marketing Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Farm Products Marketing Act*, being chapter 158 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Part II
(ss. 23-38),
enacted

PART II

UNFAIR FARM PRODUCT MARKETING PRACTICES

24. In this Part, Interpre-
tation

- (a) "buyer" means a person who buys in the course of carrying on business and does not include a consumer;
- (b) "farm product" has the same meaning as in section 1 but does not include wool, tobacco and wood.

25. The purpose of this Part is to promote fair farm product marketing practices amongst persons engaged in the producing, marketing, processing or retailing of farm products. Purpose

26. No person carrying on business in Ontario shall engage in an unfair farm product marketing practice. Prohibition

- 27.—(1) For the purposes of this Part, the following shall be deemed to be unfair farm product marketing practices: Unfair farm
product
marketing
practices

1. The requirement by a buyer of a farm product, as a condition of doing business, that a seller of the farm product grant or offer to the buyer a marketing advantage in the nature of a discount, rebate, allowance or price concession over and above any discount, rebate, allowance or price concession made available at the

same time to other buyers who offer to purchase the farm product under substantially the same terms and conditions of sale and delivery.

2. The granting or offering by a seller of a farm product of a marketing advantage in the nature of a discount, rebate, allowance or price concession to a buyer of the farm product over and above any discount, rebate, allowance or price concession made available at the same time to other buyers who offer to purchase the same farm product under substantially the same terms and conditions of sale and delivery.
3. The requirement by a buyer of a farm product, as a condition of doing business, that a seller of the farm product grant or offer to the buyer a marketing advantage in the nature of a discount, rebate, allowance or price concession as consideration for services provided by the buyer to the seller where the cost of the services provided by the buyer does not approximately equal the value of the marketing advantage granted or offered by the seller.
4. The granting or offering by a seller of a farm product to a buyer of the farm product of a marketing advantage in the nature of a discount, rebate, allowance or price concession as consideration for services provided by the buyer to the seller where the seller has reason to believe that the cost of the services provided by the buyer to the seller do not approximately equal the value of the marketing advantage granted or offered by the seller.

Justified
price
differences

(2) For the purposes of this Part, where a seller of farm products sells or offers to sell farm products of like quality and quantity at the same time at different prices, the seller does not engage in an unfair farm product marketing practice if differences in the price of the farm product are attributable to,

- (a) differences in the cost of producing, processing or marketing the farm product;
- (b) a necessity to offer the farm product at a low price to a buyer in order to match an equally low price offered to the buyer by a competitor of the seller.

Construction

(3) This Part shall not be construed to prohibit the establishment of price differences from time to time arising in response to changed conditions affecting the market for or the marketability of a farm product including,

- (a) the actual or imminent deterioration of a perishable farm product;
- (b) the sale of a farm product by order of a court;
- (c) the sale of a farm product upon the winding up, bankruptcy or discontinuance of a business.

(4) This Part shall not be construed to prohibit a co-operative association, credit union, caisse populaire or co-operative credit society from returning to its members, suppliers or customers the whole or any part of the net surplus made in its operations in proportion to the acquisition or supply of farm products from or to such members, suppliers or customers. Idem

28. The Board shall appoint one of its officers to act as a Director for the purposes of this Part. Director

29.—(1) Where the Director believes on reasonable and probable grounds that any person is engaging or has engaged in an unfair farm product marketing practice, the Director shall order such person to comply with section 26 in respect of the unfair practice specified in the order. Order to cease unfair practice

(2) Where the Director proposes to make an order under subsection (1), he shall serve notice of his proposal on each person to be named in the order together with reasons therefor. Notice of proposal

(3) A notice under subsection (2) shall inform each person to be named in the order that he is entitled to a hearing by the Board if he mails or delivers within fifteen days after the notice under subsection (2) is served on him notice in writing to the Board that he wishes a hearing. Request for hearing

(4) Where a person upon whom a notice is served under subsection (2) does not require a hearing by the Board in accordance with subsection (3), the Director may carry out the proposal stated in the notice. Failure to request hearing

(5) Where a person requires a hearing by the Board in accordance with subsection (3), the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Part and for such purposes the Board may substitute its opinion for that of the Director. Hearing

(6) The Board may attach such terms and conditions to its order as it considers proper to give effect to the purpose of this Part. Conditions

Parties

(7) The Director and the person who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this section.

Stay

30. Where an appeal is taken from an order of the Board made under section 29, the order takes effect immediately but the Board may grant a stay until the disposition of the appeal.

Assurance of
voluntary
compliance

31.—(1) Any person against whom the Director proposes to make an order to comply with section 26 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not engage in the specified unfair farm product marketing practice after the date thereof.

Assurance
deemed order

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Part the force and effect of an order made by the Director.

Investigation
by
order of
Minister

R.S.O. 1980,
c. 411

32. The Minister may by order appoint a person to make an investigation into any matter to which this Part applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the power of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act.

Inquiry by order
of the Director

33. The Director may, by order, appoint a person to make an inquiry into any matter to which this Part applies as may be specified in the Director's order and the person appointed shall report the result of his inquiry to the Director.

Investigation
by Director

34.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person is contravening or is about to contravene any of the provisions of this Part or an order or assurance of voluntary compliance made or given pursuant to this Part, the Director may by order appoint one or more persons to make an investigation as to whether such a contravention of the Part, order or assurance of voluntary compliance has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the business premises of such person

and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

- (b) inquire into the transactions, business affairs, management and practices that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Obstruction of
investigator

(4) Where a provincial judge is satisfied upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Search
warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Admissibility of
copies

Appointment of
experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4).

Report

(8) Where, upon the report of an investigation made under subsection (1), it appears to the Director that a person may have contravened any of the provisions of this Part, the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister.

Matters
confidential

35.—(1) Every person employed in the administration of this Part, including any person making an inquiry, inspection or an investigation under section 32 or 33 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Part or any proceedings under this Part;
- (b) to his counsel or to the court in any proceeding under this Part;
- (c) to inform a person involved of an unfair farm product marketing practice and of any information relevant to the person's rights under this Act; or
- (d) with the consent of the person to whom the information relates.

Testimony in
civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Part.

Certificate of
Director as
evidence

36. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

37. The Lieutenant Governor in Council may make regulations,

- (a) requiring persons engaging in the business of marketing farm products to make such returns and furnish such information to the Director as is prescribed;

- (b) requiring any information required or permitted to be furnished to the Director or contained in any form or return to be verified by affidavit;
- (c) prescribing forms for the purposes of this Part and providing for their use.

38.—(1) Every person who knowingly, Offences

- (a) furnishes false information in an investigation under this Part;
- (b) fails to comply with an order or assurance of voluntary compliance made or entered into under this Act; or
- (c) obstructs a person making an investigation under section 32 or 33,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Every person who engages in an unfair farm product marketing practice knowing it to be an unfair practice is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Idem

(3) Where a corporation is convicted of an offence under 'sub-section (1) or (2), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

(4) Where a corporation has been convicted of an offence Directors and officers
under subsection (1) or (2),

- (a) each director of the corporation; and
- (b) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

(5) Each day that a person engages in an unfair marketing practice knowing it to be unfair or fails to comply with an order or assurance of voluntary compliance made or entered into under this Act or otherwise contravenes any provision of this Act constitutes a separate offence. Continued offences

Monthly report

39.—(1) The Director shall make a written report each month to the Minister on the enforcement of this Part and on such other matters related to this Part as the Director considers advisable or the Minister may require and the report shall set out,

- (a) the names of all persons who entered into assurances of voluntary compliance with the Director during the previous month and a description of the unfair farm product marketing practice that is the subject-matter of each assurance;
- (b) the names of all persons against whom orders to cease engaging in an unfair farm product marketing practice, other than orders in respect of which hearings or appeals are pending, were made during the previous month and a description of the unfair farm product marketing practice that is the subject-matter of each order;
- (c) the number and nature of complaints received by the Director during the previous month respecting unfair farm product marketing practices together with an indication of the action taken on these complaints;
- (d) the names of all persons who are or who have been the subjects of inquiries or investigations initiated by the Director or the Minister during the previous month and a statement of the disposition of any inquiry or investigation completed during the month;
- (e) the names of all persons convicted of offences under this Part during the previous month including a description of the offence for which each person was convicted and the penalty imposed,

and the report shall be made available to the public.

Annual report

(2) The Director shall, within sixty days after the close of each calendar year, make a report to the Minister on the enforcement of this Part during the calendar year and on such other matters related to this Part as the Director considers advisable or the Minister may require, and the report shall set out,

- (a) the information required by clauses (1) (a), (b), (c), (d) and (e), compiled on the basis of the calendar year instead of the previous month;
- (b) any recommendations of amendments to this Part that the Director considers advisable, including any additional unfair farm product marketing practices that, in the opinion of the Director, should be set out in subsection 26 (1),

and the Minister shall lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Farm Products Marketing Amend- Short title
ment Act, 1982.*

An Act to amend
the Farm Products Marketing Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. RIDDELL

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Legislative Assembly Act

MR. RUSTON

EXPLANATORY NOTE

The Bill provides for a deduction of \$100 from a member's indemnity for each day of absence from the Assembly while it is sitting, unless the absence is because of illness, pregnancy and childbirth, or official business.

BILL 48

1982

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 60 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 29, section 1, is further amended by adding thereto the following subsection:

(3a) A deduction of one hundred dollars shall be made from the indemnity payable to a member under this section for every day beyond ten in a session on which the Assembly sits and on which the member is absent from the Assembly for reasons other than illness, pregnancy and childbirth, or official business.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Legislative Assembly Amendment Act, 1982*.

s. 60,
amendedDeduction
for absenceCommence-
ment

Short title

An Act to amend the
Legislative Assembly Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. RUSTON

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The Bill extends the scope of section 40a of the *Employment Standards Act* to all employees with at least one year's seniority whose employment is terminated as a result of the permanent discontinuance or reduction of all or part of the employer's business. At present, severance pay under section 40a is limited to situations in which the employment of fifty or more employees is terminated within a six-month period and is available only to employees with five years' seniority.

BILL 49

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 40a(1) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed and the following substituted therefor:

s. 40a (1),
re-enacted

(1) Where,

Severance
pay

- (a) an employee who has been employed by an employer for one or more years has his employment terminated by the employer; and
- (b) the termination is caused by the permanent discontinuance or reduction of all or part of the business of the employer at an establishment,

the employer shall pay severance pay to the employee in an amount equal to the amount the employee would have received at his regular rate for a regular non-overtime work week multiplied by the number of years of employment with the employer to a maximum of twenty-six years.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
3. The short title of this Act is the *Employment Standards Amendment Act, 1982*.

Short title

An Act to amend the
Employment Standards Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to require that the Appeal Commissioners under the *Residential Tenancies Act* consist of an equal number of representatives of landlords and tenants.

BILL 50

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 76 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 76.
re-enacted

76.—(1) The Lieutenant Governor in Council shall appoint as Appeal Commissioners a chairman, one or more vice-chairmen Appeal
Commis-
sioners and as many other persons equal in number representative of landlords and tenants as the Lieutenant Governor in Council considers appropriate.

(2) The chairman or a vice-chairman, one member representative of landlords and one member representative of tenants constitute a quorum of the Appeal Commissioners. Quorum

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to require a landlord, upon the request of a tenant, to file receipts for expenditures made by the landlord with the Residential Tenancy Commission.

BILL 51

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 126 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(5) Upon the request of a tenant, a landlord shall include receipts for each expenditure over \$100 in the material filed with the Commission under subsection (4). s. 126,
amended

(6) Where a landlord is required to file receipts with the Commission, the landlord may include expenditures for which the landlord has not filed receipts in his operating costs, financing costs and capital expenditures but the unreceipted expenditures shall not exceed 5 per cent of the total of such costs and capital expenditures. Receipts
Where no
receipts
for ex-
penditures

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to revise the manner of calculating interest on rent deposits under the *Residential Tenancies Act*.

BILL 52

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 9 (4) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 9 (4),
re-enacted

(4) A landlord shall pay annually to the tenant interest on the rent deposit at a rate of interest equal to the highest interest rate established for the most recent series of Canada Savings Bonds issued before the date of the rent deposit interest payment. Interest

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to authorize the Residential Tenancy Commission to conduct an inquiry, on its own motion, to determine whether a tenant has paid an amount of rent in excess of the amount permitted under the Act.

BILL 53

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 129 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

s. 129,
amended

(3) Despite subsection (2), the Commission may, on its own motion, conduct any inquiry it considers necessary to determine whether a tenant has paid an amount of rent that is in excess of that permitted by this Part and where the Commission determines that an excess amount has been paid, the Commission shall order that the landlord pay the excess to the tenant and shall declare the rent that may lawfully be charged.

Inquiry by
Commission
2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*.

Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to provide authority to the Residential Tenancy Commission to order a reduction in the rent charged by a landlord where the landlord's financing costs are reduced as a result of lower interest rates.

BILL 54

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 131 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 131,
amended

(2a) Where the Commission determines that all or part of a rent increase is justified by increased financing costs caused by an increase in the prime interest rate, the Commission shall, on its own motion, review the rent increase and financing costs on an annual basis and where the Commission determines in a subsequent year that the financing costs have been reduced as a result of a reduction in the prime interest rate, the Commission shall order a reduction of the rent by an amount that is attributable to the reduced financing costs. Reduction
of financing
costs

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTES

The purpose of the Bill is to make several amendments to Part IX of the Act governing the procedure of the Residential Tenancy Commission.

SECTION 1. Section 1 of the Bill contains an amendment to the Act that requires the Commission, when determining the real merits and justice of the case before it, to have regard to the interests of the tenants residing in residential premises that are maintained in good repair and fit for habitation.

SECTION 2. Clause 103 (3) (a) of the Act states that a Commissioner is not disqualified from holding a hearing and determining a matter by reason only of the fact that the Commissioner attempted to assist the parties to the proceeding in settling the matter by agreement. This provision is repealed.

SECTION 3. The proposed subsection 108 (2) of the Act requires the Commission to give two days notice to the parties before conducting an inspection under section 108 and to give the parties the opportunity to attend on the inspection.

BILL 55

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 93 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 93 (2), re-enacted

(2) In determining the real merits and justice of the case, the Commission shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and, in doing so, Commission to ascertain substance of transactions and activities, etc.

- (a) may disregard the outward form of the transactions or the separate corporate existence of the participants; and
- (b) may have regard to the pattern of activities relating to the residential complex; and
- (c) shall have regard to the interests of the tenants residing in residential premises that are maintained in good repair and fit for habitation and in compliance with the by-laws of the municipality in which the premises are situated.

2. Clause 103 (3) (a) of the said Act is repealed.

s. 103 (3) (a), repealed

3. Section 108 of the said Act is amended by adding thereto the following subsection:

s. 108, amended

(2) Where the Commission proposes to conduct an inspection, the Commission shall notify the parties to the hearing at least two days before the inspection is to take place and shall give the parties the opportunity to attend on the inspection. Notice of inspection

4. This Act comes into force on the day it receives Royal Assent.

Commencement

5. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*.

Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to authorize the Residential Tenancy Commission to order payment of a tenant's costs where the Commission has determined that the tenant paid rent in excess of the amount permitted by the Act.

BILL 56

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 129 (2) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 129 (2),
re-enacted

(2) Where, on the application of the tenant, the Commission Remedy determines that the tenant has paid an amount of rent that is in excess of that permitted by this Part, the Commission shall declare the rent that may lawfully be charged and shall order that the landlord pay to the tenant,

- (a) the amount of the excess rent paid to the landlord; and
- (b) the costs incurred by the tenant in bringing the application, including the tenant's loss of wages, if any, for appearing at a hearing, interest on the amount of the excess rent, and any other cost the Commission considers appropriate to be repaid to the tenant.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to amend the exemption provision in Part XI (Rent Review) of the Act in order to eliminate the exemption for buildings occupied after the 1st day of January, 1976.

BILL 57

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 134 (1) (c) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed. s. 134 (1) (c),
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to require a landlord who obtains vacant possession of a rental unit for the purpose of making repairs or renovations to the unit to apply to the Residential Tenancy Commission for an order determining the rent that may be charged for the repaired or renovated unit.

BILL 58

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 131a,
enacted

131a.—(1) Where the tenancy of a tenant is terminated on the ground that the landlord requires possession of the rental unit for the purpose of repairs or renovations under section 107 of the *Landlord and Tenant Act* or subsection 52 (1) of this Act, the landlord shall not offer the rental unit for rent until the landlord has applied to the Commission for an order under subsection (2) determining the rent that may be charged for the rental unit. Application to
Commission

R.S.O. 1980,
c. 232

(2) Where an application is made by a landlord under section 126, the Commission shall determine the amount of rent for each rental unit that is justified by, Determination
of rent for
renovated
unit

(a) the costs of the repairs or renovations; and

(b) the loss of revenue during the period that the repairs or renovations were carried out.

(3) The rent determined under subsection (2) shall be the rent at which the rental unit is offered, Unit to be
offered at
established
rent

(a) to a tenant who has a right of first refusal under subsection 107 (3) of the *Landlord and Tenant Act* or subsection 52 (5) of this Act; or

(b) where a tenant does not exercise a right of first refusal, to any other person who wishes to rent the unit.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Residential Tenancies Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to provide a procedure for the Residential Tenancy Commission to review rent increases allowed by the Commission for the purpose of financing major repairs by a landlord. If the Commission determines that a landlord has not carried out the repairs or that the cost of repairs is less than the cost forecast by the landlord, the Commission may order a reduction of the rent increase.

BILL 59

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 131a,
enacted

131a.—(1) Where, in an application under section 126, a landlord indicates that one of the reasons for an intended rent increase is that the landlord wishes to make major repairs to the residential complex and the Commission allows an increase for this purpose, the Commission may conduct a hearing, a reasonable time after the increased rent takes effect, to ensure that the repairs have been carried out. Major
repairs

(2) Where the Commission, after a hearing under subsection (1), determines that major repairs proposed by the landlord have not been carried out or that the cost of repairs is less than the cost forecast by the landlord, the Commission may reduce the amount of the rent increase and may order the landlord to reimburse the tenant for the amount of any excess rent paid to the landlord from the date that the previous rent increase took effect. Order
reducing
rent
increase

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

April 8th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Institution of Complaints for Certain
Assessments made in the Year 1981 in the City of Toronto**

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTE

The purpose of the Bill is to deem assessment complaints to have been lodged by owners or tenants of properties the assessment roll numbers of which are set out in the Schedule. The assessment roll numbers set out in the Schedule are for residential properties in the City of Toronto the assessed value of which (as shown in the assessment roll returned in 1981) increased over the previous assessed value. The properties indicated in this Schedule are those for which no complaint under the *Assessment Act* was made within the time provided by the Act. This Act deems complaints to have been made with respect to the assessed values of those properties without the necessity of a formal notice of complaint.

Section 2 of the Bill provides that the Minister of Revenue will give to the regional registrar of the Assessment Review Court the names and addresses of those deemed by this Act to have complained about their assessments. The regional registrar will then be able to comply with the provisions of the *Assessment Act* to give notice to the complainant of the time and place where his complaint will be heard.

Section 3 of the Bill provides that the assessment commissioner is to inform by mail each complainant to whom this Bill applies of his right to have his assessment reviewed by the Assessment Review Court.

Section 7 of the Bill provides a procedure whereby the Minister of Revenue, by regulation, may remedy the inadvertent omission from the Schedule to the Bill of any real property that should have been included in the Schedule.

BILL 60

1982

An Act to provide for the Institution of Complaints for Certain Assessments made in the Year 1981 in the City of Toronto

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Each owner or tenant, as the case may be, who on the 12th day of January, 1982, owned or occupied real property the assessed value of which was shown on the assessment roll for the City of Toronto returned on the 22nd day of December, 1981 under an assessment roll number set out in the Schedule hereto is deemed to have given to the proper regional registrar of the Assessment Review Court a notice in writing referred to in subsections 39 (1) and (3) of the *Assessment Act* that such owner or tenant, as the case may be, considers himself aggrieved as having been assessed too high with respect to the real property the assessment of which is shown in such assessment roll under the assessment roll number set out in the Schedule hereto. Complaints deemed instituted
2. The Minister of Revenue shall, as soon as is reasonably practicable after the coming into force of this Act or of a regulation made under this Act, transmit to the proper regional registrar of the Assessment Review Court the names and addresses shown in the property assessment records of the Ministry of Revenue for all persons deemed by section 1 or a regulation under this Act to have given notice in writing under section 1. R.S.O. 1980, c. 31
Minister to provide complainants' addresses
3. The assessment commissioner for the City of Toronto, as soon as is reasonably practicable after the coming into force of this Act, shall inform in writing by ordinary mail each person deemed by section 1 or by a regulation made under this Act to have given notice in writing under section 1 of that person's entitlement under this Act to have his assessment (the assessment roll number of which is shown in the Schedule hereto or in a regulation made under this Act) heard and disposed of by the Assessment Review Court. Complainant to be informed

R.S.O. 1980,
c. 31
to apply to
complaints

4. Where a notice in writing is deemed to have been given under section 1 or by a regulation made under this Act, each owner or tenant, as the case may be, of real property who is deemed to have given such notice may have the complaint that he is so deemed to have made concerning his assessment dealt with and disposed of by the Assessment Review Court, and by any court or tribunal on appeal, as though he had properly instituted the complaint under subsection 39 (3) of the *Assessment Act*, and the provisions of that Act respecting complaints and appeals apply.

R.S.O. 1980,
c. 31

Interpre-
tation

5. Any word or expression in this Act that is defined in the *Assessment Act* has the same meaning herein as in the *Assessment Act*.

Conflict

6. Where the provisions of this Act conflict with those of the *Assessment Act* in any matter relating to the institution or procedure respecting complaints or appeals under the *Assessment Act*, the provisions of this Act prevail.

Property
omitted from
Schedule

7. Where it is shown to the satisfaction of the Minister of Revenue that, in respect of a parcel of real property the assessment roll number of which is not shown in the Schedule hereto,

- (a) its assessed value on the assessment roll returned for the City of Toronto on the 22nd day of December, 1981 for taxation in the year 1982 is higher than its assessed value for taxation in the year 1981; and
- (b) such parcel was assessed for taxation in the year 1982 as residential property containing fewer than seven separately assessed residential units; and
- (c) the increase in assessed value of such parcel for taxation in the year 1982 over its assessed value for taxation in the year 1981 is the result of alterations affecting its value that are substantially of the same type and character as those that took place for the majority of parcels of real property the assessment roll numbers of which are shown in the Schedule hereto and is not the result of the application of subsection 65 (3) of the *Assessment Act*,

the Minister of Revenue may make regulations providing that the owner or tenant, as the case may be, of such parcels so omitted from the Schedule hereto shall be deemed to have given the notice in writing described in section 1, and the regulation shall specify the roll number of such parcel as shown in the assessment roll returned for the City of Toronto on the 22nd day of December, 1981, and upon the filing of the regulation, this Act

applies to and in respect of such parcel to the same extent and as fully as if the assessment roll number thereof were included in the Schedule hereto.

8. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

9. The short title of this Act is the *City of Toronto 1981* ^{Short title} *Assessment Complaints Act, 1982.*

SCHEDULE

011 180 007-00 0000	011 210 018-00 0000	011 240 143-00 0000	011 240 159-00 0000	011 260 044-00 0000
011 260 056-00 0000	011 260 084-00 0000	011 270 071-00 0000	011 300 024-00 0000	011 410 005-00 0000
011 410 008-00 0000	011 440 027-00 0000	011 450 019-00 0000	011 500 053-00 0000	011 500 078-00 0000
011 500 098-00 0000	011 530 025-00 0000	011 540 009-00 0000	011 600 034-00 0000	011 790 027-00 0000
012 030 009-00 0000	012 310 019-00 0000	012 330 018-00 0000	012 370 014-50 0000	012 490 016-00 0000
012 510 028-00 0000	012 520 036-00 0000	012 540 052-00 0000	012 690 040-00 0000	013 020 070-00 0000
013 120 005-00 0000	013 270 074-00 0000	013 270 075-00 0000	013 330 001-00 0000	013 380 008-00 0000
013 400 018-00 0000	013 580 038-00 0000	013 740 019-00 0000	014 030 011-00 0000	014 090 029-00 0000
014 090 032-00 0000	014 110 014-00 0000	014 120 016-00 0000	014 170 068-00 0000	014 170 073-00 0000
014 200 031-00 0000	021 030 002-00 0000	021 030 003-00 0000	021 040 011-00 0000	021 040 017-00 0000
021 040 018-00 0000	021 050 010-00 0000	021 080 027-00 0000	021 080 028-00 0000	021 090 037-00 0000
021 110 002-00 0000	021 110 021-00 0000	021 110 048-00 0000	021 110 097-00 0000	021 120 006-00 0000
021 120 011-00 0000	021 120 026-00 0000	021 120 027-00 0000	021 130 066-00 0000	021 170 002-00 0000
021 200 009-00 0000	021 280 042-00 0000	021 320 043-00 0000	021 320 044-00 0000	021 340 023-00 0000
021 340 037-00 0000	021 350 011-00 0000	021 350 017-00 0000	021 350 018-00 0000	021 350 046-00 0000
022 040 017-00 0000	022 050 006-00 0000	022 070 002-00 0000	022 070 022-00 0000	022 150 011-00 0000
022 150 036-00 0000	022 150 042-00 0000	022 160 001-00 0000	022 160 002-00 0000	022 170 038-00 0000
022 170 060-00 0000	022 190 003-00 0000	022 190 014-00 0000	022 220 023-00 0000	022 230 014-00 0000
022 240 037-00 0000	022 270 007-00 0000	022 270 015-00 0000	022 300 020-00 0000	022 300 021-00 0000
022 310 048-00 0000	022 350 008-00 0000	022 350 009-00 0000	022 350 020-00 0000	022 360 008-00 0000
022 370 024-00 0000	022 380 016-00 0000	022 380 018-00 0000	022 380 021-00 0000	022 400 001-00 0000
022 400 057-00 0000	022 410 016-00 0000	022 410 022-00 0000	022 410 066-00 0000	022 420 024-00 0000
022 420 040-00 0000	022 420 054-00 0000	022 430 024-00 0000	022 450 007-00 0000	022 480 049-00 0000
022 490 012-00 0000	022 490 059-00 0000	022 500 004-00 0000	022 500 030-00 0000	022 500 038-00 0000
022 500 049-00 0000	023 012 010-00 0000	023 040 015-00 0000	023 050 001-00 0000	023 050 020-00 0000
023 050 048-00 0000	023 060 013-00 0000	023 060 019-00 0000	023 070 041-00 0000	023 090 026-00 0000
023 110 012-00 0000	023 110 039-00 0000	023 110 077-00 0000	023 110 078-00 0000	023 110 094-00 0000
023 110 102-00 0000	023 110 140-00 0000	023 140 014-00 0000	023 160 071-00 0000	023 160 074-00 0000
023 170 029-00 0000	023 180 079-00 0000	023 190 031-00 0000	023 190 053-00 0000	023 200 029-00 0000
023 200 049-00 0000	023 200 050-00 0000	023 200 076-00 0000	023 200 105-00 0000	023 200 113-00 0000

023 260	053-00 0000	023 270	050-00 0000	023 270	092-00 0000	023 270	109-00 0000	023 280	125-00 0000
023 300	081-00 0000	023 320	099-00 0000	023 330	105-00 0000	023 330	122-00 0000	023 440	004-00 0000
023 440	014-00 0000	024 020	008-00 0000	024 040	002-00 0000	024 060	050-00 0000	024 070	008-00 0000
024 070	010-00 0000	024 080	040-00 0000	024 090	042-00 0000	024 100	005-00 0000	024 100	006-00 0000
024 100	015-00 0000	024 110	016-00 0000	024 110	023-00 0000	024 110	024-00 0000	024 110	027-00 0000
024 110	028-00 0000	024 120	004-00 0000	024 120	005-00 0000	024 120	030-00 0000	024 130	014-00 0000
024 130	016-00 0000	024 150	008-00 0000	024 150	089-00 0000	024 150	090-00 0000	024 180	038-00 0000
024 180	062-00 0000	024 420	002-00 0000	024 420	021-00 0000	024 420	059-00 0000	024 420	060-00 0000
024 420	134-00 0000	024 430	134-00 0000	024 440	058-00 0000	024 440	216-00 0000	024 440	244-00 0000
024 440	245-00 0000	024 440	246-00 0000	024 450	232-00 0000	024 510	005-00 0000	024 540	044-00 0000
031 050	024-00 0000	031 100	005-00 0000	031 100	008-00 0000	031 100	024-00 0000	031 100	025-00 0000
031 100	026-00 0000	031 100	027-00 0000	031 100	028-00 0000	031 100	025-00 0000	031 100	033-00 0000
031 100	035-00 0000	031 100	036-00 0000	031 100	038-00 0000	031 100	042-00 0000	031 100	046-00 0000
031 100	049-00 0000	031 100	051-00 0000	031 100	057-00 0000	031 100	060-00 0000	031 100	065-00 0000
031 100	079-00 0000	031 100	095-00 0000	031 100	098-00 0000	031 110	001-00 0000	031 110	030-00 0000
031 110	038-00 0000	031 110	039-00 0000	031 110	040-00 0000	031 110	041-00 0000	031 110	056-00 0000
031 110	060-00 0000	031 110	072-00 0000	031 110	074-00 0000	031 110	103-00 0000	031 110	108-00 0000
031 120	028-00 0000	031 120	048-00 0000	031 120	053-00 0000	031 120	056-00 0000	031 120	057-00 0000
031 120	060-00 0000	031 120	061-00 0000	031 120	063-00 0000	031 120	070-00 0000	031 120	071-00 0000
031 120	073-00 0000	031 120	078-00 0000	031 120	080-00 0000	031 120	087-00 0000	031 120	093-00 0000
031 120	100-00 0000	031 120	114-00 0000	031 120	116-00 0000	031 120	117-00 0000	031 120	118-00 0000
031 130	003-00 0000	031 130	017-00 0000	031 130	020-00 0000	031 130	035-00 0000	031 130	070-00 0000
031 140	019-00 0000	031 140	022-00 0000	031 140	024-00 0000	031 140	029-00 0000	031 140	031-00 0000
031 140	045-00 0000	031 140	050-00 0000	031 140	062-00 0000	031 140	064-00 0000	031 140	074-00 0000
031 140	075-00 0000	031 140	086-00 0000	031 140	087-00 0000	031 140	119-00 0000	031 140	124-00 0000
031 140	125-00 0000	031 150	010-00 0000	031 150	019-00 0000	031 150	024-00 0000	031 150	026-00 0000
031 150	060-00 0000	031 150	062-00 0000	031 150	086-00 0000	031 150	097-00 0000	031 150	100-00 0000
031 160	006-00 0000	031 160	007-00 0000	031 160	026-00 0000	031 160	030-00 0000	031 160	033-00 0000
031 160	057-00 0000	031 170	007-00 0000	031 170	042-00 0000	031 170	045-00 0000	031 170	053-00 0000
031 170	054-00 0000	031 180	002-00 0000	031 180	009-00 0000	031 180	010-00 0000	031 180	018-00 0000

031 180 024-00 0000	031 180 026-00 0000	031 180 055-00 0000	031 180 056-00 0000	031 190 005-00 0000
031 190 018-00 0000	031 190 031-00 0000	031 190 035-00 0000	031 190 047-00 0000	031 190 052-00 0000
031 190 054-00 0000	031 250 017-00 0000	031 250 048-00 0000	031 250 058-00 0000	031 250 063-30 0000
031 250 066-00 0000	031 260 014-00 0000	031 260 036-00 0000	031 260 041-00 0000	031 260 042-00 0000
031 260 043-00 0000	031 260 052-00 0000	031 270 002-00 0000	031 270 014-00 0000	031 270 051-50 0000
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101 120 019-00 0000	101 120 020-00 0000	101 120 039-00 0000	101 140 004-00 0000	101 140 005-00 0000
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102 010 024-00 0000	102 010 032-00 0000	102 010 034-00 0000	102 010 035-00 0000	102 010 036-00 0000
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102 020 043-00 0000	102 020 044-00 0000	102 020 045-00 0000	102 020 049-00 0000	102 020 053-00 0000
102 020 054-00 0000	102 020 055-00 0000	102 030 005-00 0000	102 030 010-00 0000	102 030 014-00 0000
102 030 015-00 0000	102 030 016-00 0000	102 030 021-00 0000	102 030 022-00 0000	102 030 024-00 0000
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102 040 006-00 0000	102 040 015-00 0000	102 040 018-00 0000	102 040 021-00 0000	102 040 023-00 0000
102 040 026-00 0000	102 070 002-00 0000	102 070 003-00 0000	102 070 006-00 0000	102 070 008-00 0000
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103 190 055-00 0000	103 190 057-00 0000	103 190 069-00 0000	103 190 073-00 0000	103 220 053-00 0000
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103 230 106-00 0000	103 240 012-00 0000	103 240 022-00 0000	103 250 037-00 0000	103 260 017-00 0000
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104 270	038-00	0000	104 270	046-00	0000	104 271	027-00	0000	104 280	034-00	0000
104 290	046-00	0000	104 290	058-00	0000	104 300	034-00	0000	104 370	004-00	0000
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111 191	007-00	0000	111 210	010-00	0000	111 220	011-00	0000	111 230	011-00	0000
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112 240 006-00 0000	112 260 026-00 0000	112 290 003-00 0000	112 290 005-00 0000	112 390 006-00 0000
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114 090 007-00 0000	114 090 011-00 0000	114 090 017-00 0000	114 090 033-00 0000	114 090 034-00 0000
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114 170 039-00 0000	114 170 040-00 0000	114 190 020-00 0000	114 230 005-00 0000	114 251 007-00 0000
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114 580 049-00 0000	114 580 068-00 0000	114 580 072-00 0000	114 580 073-00 0000	114 620 006-00 0000
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114 720 070-00 0000	114 730 013-00 0000	114 750 032-00 0000	114 750 044-00 0000	115 010 009-00 0000
115 220 022-00 0000	115 300 074-00 0000	115 310 011-00 0000	116 120 040-00 0000	116 120 052-00 0000
116 130 007-00 0000	116 130 024-00 0000	116 130 062-00 0000	116 140 031-00 0000	116 170 030-00 0000
116 430 029-00 0000	116 500 016-00 0000			

An Act to provide for the Institution of
Complaints for Certain Assessments made
in the Year 1981 in the City of Toronto

1st Reading

April 13th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 60

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to provide for the Institution of Complaints for Certain Assessments made in the Year 1981 in the City of Toronto

THE HON. G. L. ASHE
Minister of Revenue

BILL 60 1982

An Act to provide for the Institution of Complaints for Certain Assessments made in the Year 1981 in the City of Toronto

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Each owner or tenant, as the case may be, who on the 12th day of January, 1982, owned or occupied real property the assessed value of which was shown on the assessment roll for the City of Toronto returned on the 22nd day of December, 1981 under an assessment roll number set out in the Schedule hereto is deemed to have given to the proper regional registrar of the Assessment Review Court a notice in writing referred to in subsections 39 (1) and (3) of the *Assessment Act* that such owner or tenant, as the case may be, considers himself aggrieved as having been assessed too high with respect to the real property the assessment of which is shown in such assessment roll under the assessment roll number set out in the Schedule hereto.

Complaints
deemed
instituted

R.S.O. 1980,
c. 31

2. The Minister of Revenue shall, as soon as is reasonably practicable after the coming into force of this Act or of a regulation made under this Act, transmit to the proper regional registrar of the Assessment Review Court the names and addresses shown in the property assessment records of the Ministry of Revenue for all persons deemed by section 1 or a regulation under this Act to have given notice in writing under section 1.

Minister
to provide
complainants'
addresses

3. The assessment commissioner for the City of Toronto, as soon as is reasonably practicable after the coming into force of this Act, shall inform in writing by ordinary mail each person deemed by section 1 or by a regulation made under this Act to have given notice in writing under section 1 of that person's entitlement under this Act to have his assessment (the assessment roll number of which is shown in the Schedule hereto or in a regulation made under this Act) heard and disposed of by the Assessment Review Court.

Complainant
to be
informed

R.S.O. 1980,
c. 31
to apply to
complaints

4. Where a notice in writing is deemed to have been given under section 1 or by a regulation made under this Act, each owner or tenant, as the case may be, of real property who is deemed to have given such notice may have the complaint that he is so deemed to have made concerning his assessment dealt with and disposed of by the Assessment Review Court, and by any court or tribunal on appeal, as though he had properly instituted the complaint under subsection 39 (3) of the *Assessment Act*, and the provisions of that Act respecting complaints and appeals apply.

R.S.O. 1980,
c. 31

Interpre-
tation

5. Any word or expression in this Act that is defined in the *Assessment Act* has the same meaning herein as in the *Assessment Act*.

Conflict

6. Where the provisions of this Act conflict with those of the *Assessment Act* in any matter relating to the institution or procedure respecting complaints or appeals under the *Assessment Act*, the provisions of this Act prevail.

Property
omitted from
Schedule

7. Where it is shown to the satisfaction of the Minister of Revenue that, in respect of a parcel of real property the assessment roll number of which is not shown in the Schedule hereto,

- (a) its assessed value on the assessment roll returned for the City of Toronto on the 22nd day of December, 1981 for taxation in the year 1982 is higher than its assessed value for taxation in the year 1981; and
- (b) such parcel was assessed for taxation in the year 1982 as residential property containing fewer than seven separately assessed residential units; and
- (c) the increase in assessed value of such parcel for taxation in the year 1982 over its assessed value for taxation in the year 1981 is the result of alterations affecting its value that are substantially of the same type and character as those that took place for the majority of parcels of real property the assessment roll numbers of which are shown in the Schedule hereto and is not the result of the application of subsection 65 (3) of the *Assessment Act*,

the Minister of Revenue may make regulations providing that the owner or tenant, as the case may be, of such parcels so omitted from the Schedule hereto shall be deemed to have given the notice in writing described in section 1, and the regulation shall specify the roll number of such parcel as shown in the assessment roll returned for the City of Toronto on the 22nd day of December, 1981, and upon the filing of the regulation, this Act

applies to and in respect of such parcel to the same extent and as fully as if the assessment roll number thereof were included in the Schedule hereto.

8. This Act comes into force on the day it receives Royal Assent. Commence-
ment

9. The short title of this Act is the *City of Toronto 1981 Assessment Complaints Act, 1982*. Short title

SCHEDULE

011 160 007-00 0000	011 210 018-00 0000	011 240 145-00 0000	011 240 159-00 0000	011 260 044-00 0000
011 260 056-00 0000	011 260 084-00 0000	011 270 071-00 0000	011 390 024-00 0000	011 410 005-00 0000
011 410 008-00 0000	011 440 027-00 0000	011 450 019-00 0000	011 500 052-00 0000	011 500 076-00 0000
011 500 098-00 0000	011 530 025-00 0000	011 540 009-00 0000	011 600 034-00 0000	011 790 027-00 0000
012 030 009-00 0000	012 310 019-00 0000	012 330 018-00 0000	012 370 014-50 0000	012 490 016-00 0000
012 510 028-00 0000	012 520 036-00 0000	012 540 052-00 0000	012 690 040-00 0000	013 020 070-00 0000
013 120 005-00 0000	013 270 074-00 0000	013 270 075-00 0000	013 330 001-00 0000	013 360 008-00 0000
013 400 018-00 0000	013 580 038-00 0000	013 740 019-00 0000	014 030 011-00 0000	014 090 029-00 0000
014 090 032-00 0000	014 110 014-00 0000	014 120 016-00 0000	014 170 060-00 0000	014 170 073-00 0000
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021 040 016-00 0000	021 050 010-00 0000	021 080 027-00 0000	021 080 028-00 0000	021 090 037-00 0000
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095 160 024-00 0000	095 160 025-00 0000	095 210 024-00 0000	095 251 020-00 0000	095 251 021-00 0000
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095 330 032-00 0000	095 350 019-00 0000	095 360 003-00 0000	095 410 032-00 0000	095 430 004-00 0000
095 500 014-00 0000	095 560 003-00 0000	095 560 035-00 0000	095 570 016-00 0000	095 580 003-00 0000
095 580 007-00 0000	095 590 025-00 0000	096 010 016-00 0000	096 010 020-00 0000	096 030 008-00 0000
096 030 036-00 0000	096 050 007-00 0000	096 050 041-00 0000	096 050 056-00 0000	096 050 075-00 0000
096 080 021-00 0000	096 090 001-00 0000	096 100 019-00 0000	096 110 030-50 0000	096 110 050-50 0000
096 110 052-50 0000	096 120 055-00 0000	096 130 034-00 0000	096 130 053-00 0000	096 150 022-00 0000
096 150 028-50 0000	096 160 003-00 0000	096 160 012-00 0000	096 160 059-50 0000	096 160 061-50 0000
096 170 025-00 0000	096 230 030-00 0000	096 240 033-50 0000	101 040 002-00 0000	101 040 006-00 0000
101 040 011-00 0000	101 040 024-00 0000	101 040 031-00 0000	101 040 033-00 0000	101 040 037-00 0000

101 040 038-00 0000	101 040 045-00 0000	101 040 046-00 0000	101 040 048-00 0000	101 040 049-00 0000
101 040 050-00 0000	101 040 054-00 0000	101 040 052-00 0000	101 090 006-00 0000	101 090 016-00 0000
101 090 017-00 0000	101 090 023-00 0000	101 090 026-00 0000	101 100 015-00 0000	101 100 016-00 0000
101 100 017-00 0000	101 120 002-00 0000	101 120 003-00 0000	101 120 004-00 0000	101 120 010-00 0000
101 120 019-00 0000	101 120 020-00 0000	101 120 039-00 0000	101 140 004-00 0000	101 140 005-00 0000
101 140 011-00 0000	101 140 012-00 0000	101 140 017-00 0000	101 140 018-00 0000	101 150 006-00 0000
101 160 003-00 0000	101 160 006-00 0000	101 160 009-00 0000	101 160 014-00 0000	101 160 015-00 0000
101 160 019-00 0000	101 160 020-00 0000	101 160 023-00 0000	101 160 024-00 0000	101 160 029-00 0000
101 160 049-00 0000	101 170 004-00 0000	101 170 008-00 0000	101 200 012-00 0000	101 200 016-00 0000
101 200 019-00 0000	101 200 022-00 0000	101 200 024-00 0000	101 200 025-00 0000	101 210 019-00 0000
101 220 016-00 0000	101 240 009-00 0000	101 240 010-00 0000	101 250 004-00 0000	101 270 022-00 0000
101 280 007-00 0000	101 280 008-00 0000	101 280 020-00 0000	101 280 021-00 0000	101 280 025-00 0000
101 280 029-00 0000	101 280 032-00 0000	101 280 033-00 0000	101 280 035-00 0000	101 280 036-00 0000
101 280 039-00 0000	101 280 043-00 0000	101 280 044-00 0000	101 280 045-00 0000	101 280 047-00 0000
101 280 049-00 0000	101 280 050-00 0000	101 280 051-00 0000	101 280 064-00 0000	101 280 069-00 0000
101 320 013-00 0000	101 330 018-00 0000	101 340 020-00 0000	101 350 047-00 0000	101 350 050-00 0000
101 350 052-00 0000	101 360 003-00 0000	101 360 011-00 0000	101 360 017-00 0000	101 360 029-00 0000
101 370 012-00 0000	101 370 016-00 0000	101 370 021-00 0000	101 370 029-00 0000	101 370 030-00 0000
101 370 041-00 0000	101 370 043-00 0000	101 380 007-00 0000	101 380 008-00 0000	101 380 010-00 0000
101 380 016-00 0000	101 380 018-00 0000	101 380 032-00 0000	101 380 035-00 0000	101 380 037-00 0000
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101 390 039-00 0000	101 390 040-00 0000	101 390 051-00 0000	101 410 008-00 0000	101 410 009-00 0000
101 410 010-00 0000	101 410 011-00 0000	101 410 015-00 0000	101 410 017-00 0000	101 410 018-00 0000
101 410 020-00 0000	101 410 021-00 0000	101 410 043-00 0000	101 410 049-00 0000	101 410 050-00 0000
101 410 050-00 0000	101 410 060-00 0000	101 410 067-00 0000	101 410 068-00 0000	101 420 013-00 0000
101 420 022-00 0000	101 420 033-00 0000	101 420 044-00 0000	101 420 045-00 0000	101 420 046-00 0000
101 420 049-00 0000	101 430 006-00 0000	101 430 007-00 0000	101 430 012-00 0000	101 430 019-00 0000
101 430 022-00 0000	101 430 030-00 0000	101 430 045-00 0000	101 440 001-00 0000	101 440 002-00 0000
101 440 008-00 0000	101 440 013-00 0000	101 450 026-00 0000	101 450 029-00 0000	101 450 032-00 0000
101 450 037-60 0000	101 450 067-00 0000	101 470 021-00 0000	101 470 025-00 0000	101 470 027-00 0000

101 480 001-00 0000	101 480 002-00 0000	101 480 009-00 0000	101 480 014-00 0000	101 480 015-00 0000
101 480 019-00 0000	101 480 034-00 0000	101 480 036-00 0000	101 480 037-00 0000	101 480 039-00 0000
101 490 008-00 0000	101 490 017-00 0000	101 490 021-00 0000	101 490 023-00 0000	101 490 024-00 0000
101 490 025-00 0000	101 490 030-00 0000	101 490 032-00 0000	101 490 036-00 0000	101 490 042-00 0000
101 490 044-00 0000	101 510 003-00 0000	101 510 004-00 0000	101 510 008-00 0000	101 510 010-00 0000
101 510 011-00 0000	101 510 012-00 0000	101 520 004-00 0000	101 520 011-00 0000	101 520 023-00 0000
101 520 024-00 0000	101 520 025-00 0000	101 530 018-00 0000	101 540 002-00 0000	101 540 026-00 0000
101 570 008-00 0000	101 570 012-00 0000	101 570 016-00 0000	101 570 018-00 0000	101 580 021-00 0000
101 590 010-00 0000	101 590 012-00 0000	101 590 022-00 0000	101 620 017-00 0000	101 620 021-00 0000
101 620 025-00 0000	101 640 001-00 0000	101 640 004-00 0000	101 640 026-00 0000	101 640 028-00 0000
101 640 032-00 0000	101 640 033-00 0000	101 650 029-00 0000	101 650 030-00 0000	101 650 031-00 0000
101 660 004-00 0000	101 660 011-00 0000	101 660 012-00 0000	101 660 013-00 0000	101 660 024-00 0000
101 660 026-00 0000	101 660 030-00 0000	101 660 031-20 0000	101 660 031-80 0000	101 660 033-00 0000
101 670 010-00 0000	101 680 007-00 0000	101 690 003-00 0000	101 690 005-00 0000	101 690 006-00 0000
101 690 007-00 0000	101 690 018-00 0000	101 700 005-00 0000	101 708 007-00 0000	101 750 017-00 0000
102 010 004-00 0000	102 010 006-00 0000	102 010 007-00 0000	102 010 009-00 0000	102 010 010-00 0000
102 010 011-00 0000	102 010 012-00 0000	102 010 018-00 0000	102 010 019-00 0000	102 010 023-00 0000
102 010 024-00 0000	102 010 032-00 0000	102 010 034-00 0000	102 010 035-00 0000	102 010 036-00 0000
102 010 037-00 0000	102 010 040-00 0000	102 010 054-00 0000	102 010 055-00 0000	102 010 056-00 0000
102 010 057-00 0000	102 010 056-00 0000	102 010 059-00 0000	102 010 062-00 0000	102 010 064-00 0000
102 020 002-00 0000	102 020 003-00 0000	102 020 005-00 0000	102 020 006-00 0000	102 020 009-00 0000
102 020 011-00 0000	102 020 018-00 0000	102 020 019-00 0000	102 020 022-00 0000	102 020 024-00 0000
102 020 025-00 0000	102 020 028-00 0000	102 020 029-00 0000	102 020 031-00 0000	102 020 040-00 0000
102 020 043-00 0000	102 020 044-00 0000	102 020 045-00 0000	102 020 049-00 0000	102 020 053-00 0000
102 020 054-00 0000	102 020 055-00 0000	102 030 005-00 0000	102 030 010-00 0000	102 030 014-00 0000
102 030 015-00 0000	102 030 016-00 0000	102 030 021-00 0000	102 030 022-00 0000	102 030 024-00 0000
102 030 036-00 0000	102 030 041-00 0000	102 030 052-00 0000	102 030 053-00 0000	102 040 005-00 0000
102 040 006-00 0000	102 040 015-00 0000	102 040 018-00 0000	102 040 021-00 0000	102 040 023-00 0000
102 040 028-00 0000	102 070 002-00 0000	102 070 003-00 0000	102 070 006-00 0000	102 070 008-00 0000
102 070 014-00 0000	102 070 022-00 0000	102 070 024-00 0000	102 070 026-00 0000	102 070 027-00 0000

102 151 024-00 0000	102 151 026-00 0000	102 250 015-00 0000	102 260 005-00 0000	102 280 003-00 0000
102 280 010-00 0000	102 280 021-00 0000	102 290 026-00 0000	102 300 002-00 0000	102 300 013-00 0000
102 310 021-00 0000	102 310 031-00 0000	102 320 008-00 0000	102 320 026-00 0000	102 320 042-00 0000
102 320 005-00 0000	102 330 048-00 0000	102 340 014-00 0000	102 340 033-00 0000	102 340 037-00 0000
102 340 044-00 0000	102 400 007-00 0000	102 410 031-00 0000	102 420 023-00 0000	102 430 005-00 0000
102 450 007-00 0000	102 450 011-00 0000	102 460 011-00 0000	102 460 014-00 0000	102 470 008-00 0000
102 470 009-00 0000	102 480 026-00 0000	102 490 010-00 0000	102 490 020-00 0000	102 510 024-00 0000
102 520 035-00 0000	103 040 093-00 0000	103 040 179-00 0000	103 040 180-00 0000	103 040 182-00 0000
103 050 018-00 0000	103 090 003-00 0000	103 090 009-00 0000	103 090 010-00 0000	103 090 011-00 0000
103 090 033-00 0000	103 090 065-00 0000	103 090 074-00 0000	103 090 075-00 0000	103 090 076-00 0000
103 090 082-00 0000	103 090 084-00 0000	103 090 087-00 0000	103 090 094-00 0000	103 090 099-00 0000
103 090 103-00 0000	103 090 104-00 0000	103 100 007-00 0000	103 100 008-00 0000	103 100 010-00 0000
103 100 018-00 0000	103 100 021-00 0000	103 100 022-00 0000	103 100 023-00 0000	103 100 024-00 0000
103 100 026-00 0000	103 100 027-00 0000	103 100 026-00 0000	103 100 032-00 0000	103 110 003-00 0000
103 110 012-00 0000	103 110 013-00 0000	103 110 029-00 0000	103 110 037-00 0000	103 110 039-00 0000
103 110 048-00 0000	103 120 002-00 0000	103 120 011-00 0000	103 120 014-00 0000	103 120 029-00 0000
103 130 004-00 0000	103 130 007-00 0000	103 130 012-00 0000	103 130 036-00 0000	103 130 075-00 0000
103 130 083-00 0000	103 150 007-00 0000	103 160 014-00 0000	103 160 037-00 0000	103 170 070-00 0000
103 180 005-00 0000	103 180 007-00 0000	103 180 044-00 0000	103 190 016-00 0000	103 190 048-00 0000
103 190 055-00 0000	103 190 057-00 0000	103 190 069-00 0000	103 190 073-00 0000	103 220 053-00 0000
103 230 016-00 0000	103 230 020-00 0000	103 230 024-00 0000	103 230 038-00 0000	103 230 102-00 0000
103 230 106-00 0000	103 240 012-00 0000	103 240 022-00 0000	103 250 037-00 0000	103 260 017-00 0000
103 270 018-00 0000	103 280 043-00 0000	103 280 052-00 0000	103 300 019-00 0000	103 330 018-00 0000
103 350 028-00 0000	103 370 026-00 0000	103 370 027-00 0000	103 400 037-00 0000	103 450 026-00 0000
103 470 009-00 0000	103 480 004-00 0000	103 480 024-00 0000	103 480 037-00 0000	103 490 007-00 0000
103 500 018-00 0000	103 500 019-00 0000	103 500 037-00 0000	103 520 002-00 0000	103 520 006-00 0000
103 520 011-00 0000	103 520 020-00 0000	103 520 028-00 0000	103 520 036-00 0000	103 530 061-00 0000
103 530 062-00 0000	103 530 063-50 0000	103 530 064-00 0000	103 530 100-00 0000	103 530 106-00 0000
103 540 005-00 0000	103 540 007-00 0000	103 540 010-00 0000	103 540 048-00 0000	103 550 017-00 0000
103 550 034-00 0000	103 550 044-00 0000	103 560 023-00 0000	103 560 053-00 0000	103 560 058-00 0000

103 570 030-00 0000	103 580 034-00 0000	103 580 043-00 0000	103 580 050-00 0000	103 590 035-00 0000
103 600 086-00 0000	103 600 089-00 0000	103 610 003-00 0000	103 610 004-00 0000	103 610 010-00 0000
103 610 011-00 0000	103 610 043-00 0000	103 610 051-00 0000	103 610 060-00 0000	103 620 011-00 0000
103 620 033-00 0000	103 620 034-00 0000	103 620 038-00 0000	103 620 048-00 0000	103 620 043-00 0000
103 620 044-00 0000	103 620 048-00 0000	103 620 050-00 0000	103 620 052-00 0000	103 620 057-00 0000
103 620 058-00 0000	103 620 059-00 0000	103 620 060-00 0000	103 620 061-00 0000	103 620 064-00 0000
103 620 069-00 0000	103 620 082-00 0000	103 620 086-00 0000	103 620 095-00 0000	103 620 097-00 0000
103 620 098-00 0000	103 620 099-00 0000	103 620 100-00 0000	103 620 105-00 0000	103 620 110-00 0000
103 620 111-00 0000	103 620 112-00 0000	103 730 003-00 0000	103 730 012-00 0000	103 730 029-00 0000
103 740 004-00 0000	103 750 029-00 0000	103 750 040-00 0000	103 760 004-00 0000	103 770 056-00 0000
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104 070 024-00 0000	104 130 009-00 0000	104 140 017-00 0000	104 140 022-00 0000	104 140 034-00 0000
104 150 009-00 0000	104 150 053-00 0000	104 210 045-00 0000	104 220 035-00 0000	104 220 063-00 0000
104 220 074-00 0000	104 230 026-51 0000	104 230 026-52 0000	104 230 026-53 0000	104 230 026-54 0000
104 230 026-55 0000	104 230 026-56 0000	104 230 026-57 0000	104 230 026-58 0000	104 230 026-59 0000
104 230 066-00 0000	104 230 077-00 0000	104 230 099-00 0000	104 230 108-00 0000	104 260 025-00 0000
104 260 091-00 0000	104 270 002-00 0000	104 270 007-00 0000	104 270 013-00 0000	104 270 021-00 0000
104 270 038-00 0000	104 270 046-00 0000	104 271 027-00 0000	104 271 031-00 0000	104 290 034-00 0000
104 290 046-00 0000	104 290 058-00 0000	104 300 034-00 0000	104 300 039-00 0000	104 370 004-00 0000
104 360 055-00 0000	104 420 003-00 0000	104 420 008-00 0000	104 430 003-00 0000	104 430 039-00 0000
104 460 016-00 0000	104 460 035-00 0000	104 460 037-00 0000	104 480 002-00 0000	104 490 033-00 0000
104 500 021-00 0000	104 560 006-00 0000	104 570 016-00 0000	105 100 013-00 0000	105 110 006-00 0000
105 110 008-00 0000	105 110 022-00 0000	105 110 038-00 0000	105 120 036-00 0000	105 120 044-00 0000
105 150 017-00 0000	105 160 045-00 0000	105 160 047-00 0000	105 160 062-00 0000	105 170 011-00 0000
105 190 026-00 0000	105 280 004-00 0000	105 290 019-00 0000	105 290 024-00 0000	105 290 040-00 0000
105 291 018-00 0000	105 340 035-00 0000	105 350 003-00 0000	105 360 005-00 0000	105 360 011-00 0000
111 070 005-00 0000	111 080 005-00 0000	111 080 010-00 0000	111 110 008-00 0000	111 130 009-00 0000
111 130 019-00 0000	111 180 006-00 0000	111 160 047-00 0000	111 180 093-00 0000	111 191 004-00 0000
111 191 007-00 0000	111 210 010-00 0000	111 220 011-00 0000	111 220 020-00 0000	111 230 011-00 0000
111 240 027-00 0000	111 260 001-00 0000	111 260 031-00 0000	111 270 035-00 0000	111 270 049-00 0000

111 280 019-00 0000	111 280 022-00 0000	111 280 029-00 0000	111 290 009-00 0000	111 290 010-00 0000
111 290 012-00 0000	111 310 027-00 0000	111 320 015-00 0000	111 340 017-00 0000	111 340 031-00 0000
111 340 037-00 0000	111 340 038-00 0000	111 360 006-00 0000	111 360 022-00 0000	111 370 010-00 0000
111 370 015-00 0000	111 360 013-00 0000	111 380 015-00 0000	111 380 024-00 0000	111 380 037-00 0000
111 390 003-00 0000	111 390 015-00 0000	111 390 025-00 0000	111 390 026-00 0000	111 390 027-00 0000
111 400 045-00 0000	111 400 046-00 0000	111 400 050-00 0000	111 400 056-00 0000	111 400 060-00 0000
111 400 061-00 0000	111 400 069-00 0000	111 400 072-00 0000	111 400 075-00 0000	111 400 076-00 0000
111 420 001-00 0000	111 430 029-00 0000	111 460 009-00 0000	111 460 011-00 0000	112 050 010-00 0000
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112 120 009-00 0000	112 120 020-00 0000	112 140 014-00 0000	112 170 026-00 0000	112 180 002-00 0000
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112 390 010-00 0000	112 390 011-00 0000	112 400 007-00 0000	112 400 008-00 0000	112 410 002-00 0000
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112 530 024-00 0000	112 550 027-00 0000	112 550 031-00 0000	112 560 006-00 0000	112 560 020-00 0000
112 570 015-00 0000	112 570 019-00 0000	112 570 020-00 0000	112 590 006-00 0000	112 590 022-00 0000
112 610 014-00 0000	112 610 027-00 0000	112 630 021-00 0000	112 630 029-50 0000	112 640 010-00 0000
113 010 001-00 0000	113 010 011-00 0000	113 010 020-00 0000	113 010 117-00 0000	113 020 067-00 0000
113 670 018-00 0000	114 010 002-00 0000	114 010 005-00 0000	114 030 006-00 0000	114 030 011-00 0000
114 030 021-00 0000	114 030 023-00 0000	114 030 030-00 0000	114 040 017-00 0000	114 040 027-00 0000
114 040 029-00 0000	114 040 030-00 0000	114 040 031-00 0000	114 040 032-00 0000	114 040 033-00 0000
114 040 035-00 0000	114 040 036-00 0000	114 040 057-00 0000	114 050 023-00 0000	114 050 023-00 0000
114 070 011-00 0000	114 080 016-00 0000	114 080 021-00 0000	114 080 033-00 0000	114 090 001-00 0000
114 090 007-00 0000	114 090 011-00 0000	114 090 017-00 0000	114 090 033-00 0000	114 090 034-00 0000
114 100 003-00 0000	114 100 015-00 0000	114 100 018-00 0000	114 100 021-00 0000	114 100 026-00 0000
114 110 006-00 0000	114 110 018-00 0000	114 130 004-00 0000	114 130 006-00 0000	114 130 014-00 0000
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114 170 039-00 0000	114 170 040-00 0000	114 190 020-00 0000	114 230 005-00 0000	114 251 007-00 0000
114 260 042-00 0000	114 280 038-00 0000	114 330 043-00 0000	114 370 019-00 0000	114 380 035-00 0000
114 430 002-00 0000	114 500 021-00 0000	114 500 026-00 0000	114 520 013-00 0000	114 560 041-00 0000

114 560 050-00 0000	114 560 051-00 0000	114 560 052-00 0000	114 560 053-00 0000	114 570 032-00 0000
114 570 046-00 0000	114 580 008-00 0000	114 560 014-00 0000	114 560 015-00 0000	114 560 021-00 0000
114 560 022-00 0000	114 560 023-00 0000	114 560 026-00 0000	114 560 027-00 0000	114 560 034-00 0000
114 560 049-00 0000	114 580 068-00 0000	114 560 072-00 0000	114 560 073-00 0000	114 620 006-00 0000
114 670 020-00 0000	114 670 023-00 0000	114 690 098-00 0000	114 690 099-00 0000	114 690 101-00 0000
114 720 070-00 0000	114 730 013-00 0000	114 750 032-00 0000	114 750 044-00 0000	115 010 009-00 0000
115 220 022-00 0000	115 300 074-00 0000	115 310 011-00 0000	116 120 040-00 0000	116 120 052-00 0000
116 130 007-00 0000	116 130 024-00 0000	116 130 062-00 0000	116 140 031-00 0000	116 170 030-00 0000
116 430 029-00 0000	116 500 016-00 0000			

An Act to provide for the Institution of
Complaints for Certain Assessments made
in the Year 1981 in the City of Toronto

1st Reading

April 13th, 1982

2nd Reading

May 25th, 1982

3rd Reading

May 25th, 1982

THE HON. G. L. ASHE
Minister of Revenue

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Planning Act

MR. PHILIP

EXPLANATORY NOTE

The Bill authorizes municipal councils to refuse to issue demolition permits for the demolition of buildings containing six or more dwelling units so long as a statute of Ontario providing for mandatory rent review remains in effect. Tourist establishments, unsafe buildings and buildings whose coverage is 50 per cent or less of the applicable maximum residential density are excepted.

BILL 61

1982

An Act to amend the Planning Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 45 of the *Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3a) Without derogating from the council's authority under subsection (3), and despite sections 34 and 44 of the *Ontario Heritage Act*, so long as a statute of Ontario imposing mandatory rent review in the municipality remains in effect, the council may refuse to issue a demolition permit for the demolition of any building containing six or more dwelling units, other than,

- (a) a building coming within the definition of tourist establishment as defined in the *Tourism Act*; Council may refuse to issue demolition permit
R.S.O. 1980, c. 337
- (b) a building that is unsafe within the meaning of the *Building Code Act*; or R.S.O. 1980, c. 507
- (c) a building that is built to a residential density that is 50 per cent or less of the maximum residential density which the council may by by-law permit under the official plan for the municipality. R.S.O. 1980, c. 51

- (2) Subsection 45 (6) of the said Act is amended by striking out "subsection (7)" in the first line and inserting in lieu thereof "subsections (3a) and (7)". s. 45 (6), amended

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. The short title of this Act is the *Planning Amendment Act, 1982*. Short title

An Act to amend the Planning Act

1st Reading

April 13th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Municipal Boundary Negotiations Act, 1981**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTE

Section 24 of the Act provides that applications for an annexation or amalgamation filed by a municipality with the Municipal Board before the 1st day of February, 1982 (the day of the coming into force of the Act) are to continue to be heard and determined by the Board. The proposed new subsection (3) authorizes a municipality that has filed such an application to withdraw it at any time before the Board has finally determined the matter, subject to such order as to costs as the Board may make. The proposed subsection (4) provides that on an application being withdrawn any notices of objection to the decision of the Board in respect of that application that may have been filed with the Clerk of the Executive Council are deemed to be also withdrawn.

BILL 62

1982

An Act to amend the Municipal Boundary Negotiations Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 24 of the *Municipal Boundary Negotiations Act, 1981*,^{s. 24, amended} being chapter 70, is amended by adding thereto the following subsection:

(3) A municipality that has filed an application under section 14 of the *Municipal Act* with the Municipal Board prior to the 1st day of February, 1982, may, at any time before the Board has made an order finally determining the matter, and subject to such order as to costs as the Board may make, withdraw the application.^{Withdrawal of application R.S.O. 1980, c. 302}

(4) Where an application is withdrawn under subsection (3),^{Idem} any notice of objection to a decision of the Board made in respect of that application that is filed under subsection 14 (20) of the *Municipal Act* shall be deemed to be also withdrawn.

2. This Act shall be deemed to have come into force on the 1st day of February, 1982.^{Commencement}
3. The short title of this Act is the *Municipal Boundary Negotiations Amendment Act, 1982*.^{Short title}

An Act to amend the
Municipal Boundary Negotiations Act, 1981

1st Reading

April 15th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 62

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipal Boundary Negotiations Act, 1981

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

BILL 62

1982

An Act to amend the Municipal Boundary Negotiations Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 24 of the *Municipal Boundary Negotiations Act, 1981*, ^{s. 24, amended} being chapter 70, is amended by adding thereto the following subsections:
 - (3) A municipality that has filed an application under section 14 of the *Municipal Act* with the Municipal Board prior to the 1st day of February, 1982, may, at any time before the Board has made an order finally determining the matter, and subject to such order as to costs as the Board may make, withdraw the application. ^{Withdrawal of application R.S.O. 1980, c. 302}
 - (4) Where an application is withdrawn under subsection (3), ^{Idem} any notice of objection to a decision of the Board made in respect of that application that is filed under subsection 14 (20) of the *Municipal Act* shall be deemed to be also withdrawn.
2. This Act shall be deemed to have come into force on the 1st day of February, 1982. ^{Commence-ment}
3. The short title of this Act is the *Municipal Boundary Negotiations Amendment Act, 1982*. ^{Short title}

An Act to amend the
Municipal Boundary Negotiations Act, 1981

1st Reading

April 15th, 1982

2nd Reading

June 29th, 1982

3rd Reading

July 7th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Planning Act

MR. PHILIP

EXPLANATORY NOTE

The Bill gives additional enforcement powers to municipalities that have enacted property standards by-laws. Such municipalities may add the cost of correcting violations of the by-law to the owner's property tax bill and may enact by-laws authorizing tenants to pay rent to the municipality rather than to the owner until an order to repair has been complied with. Property standards officers may have immediate repairs carried out in emergency situations.

BILL 63

1982

An Act to amend the Planning Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 43 (3) of the *Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

s. 43 (3),
amended

(f) for directing any occupant of a property named in an order that has been confirmed or modified under this section to pay his rent to the treasurer of the municipality until the order has been complied with, and for providing that such rent shall be applied by the municipality to reduce the amount of any lien against the property under subsection (21a) or (21j) and for providing that any balance held by the treasurer of the municipality shall be paid to the owner when the order has been complied with.

- (2) The said section 43 is amended by adding thereto the following subsections:

s. 43 (21a-21j)
enacted

(21a) Where the municipality has exercised its right to demolish or repair under subsection (21), the municipality has a lien or charge upon the lands named in the order for the amount, as certified by the clerk of the municipality, expended by or on behalf of the municipality in connection with the demolition or repair.

Lien for
cost of
demolition
or repair

(21b) The amount of a lien or charge created under subsection (21a) may be added by the clerk of the municipality to the collector's roll and collected in the same manner as municipal taxes over a period fixed by the council and is a lien and charge upon the lands named in the order until paid.

Enforcement
of lien

(21c) Where upon inspection the officer is satisfied that a violation of the standards prescribed in the by-law poses an

Emergency
order

immediate danger to the health or safety of any person, the officer may make an order requiring the violation to be corrected immediately.

Power to
repair

(21d) Upon the making of an order under subsection (21c), before the order is served, confirmed or modified in accordance with this section, the officer may immediately take or cause to be taken any measures the officer considers necessary to correct the violation, and the municipality in addition to all other remedies,

- (a) has the right to repair the property to correct the violation and for this purpose with its servants and agents from time to time to enter in and upon the property; and
- (b) is not liable to compensate the owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the municipality under this subsection, including anything done without notice to such persons.

Service of
order

(21e) As soon as possible after a violation is corrected under subsection (21d), the officer shall serve or cause to be served copies of the order in accordance with subsections (7), (8) and (9) and may, at the same time, provide all occupants with a copy of the order.

Contents
of order

(21f) An order made under subsection (21c) shall contain,

- (a) the municipal address or a local description of the property;
- (b) particulars of the violation and reasons why the officer believes the violation poses an immediate danger to the health or safety of any person; and
- (c) notice of the provisions of subsections (21g), (21h), (21i) and (21j),

and shall have attached thereto a statement by the officer setting out the measures taken by the municipality and the amount expended in doing so.

Application
to committee

(21g) Upon service of an order made under subsection (21c), the officer shall apply to the committee for confirmation of the order.

Committee's
decision

(21h) Upon an officer's application under subsection (21g), the committee shall,

- (a) give every person upon whom the order was served a reasonable opportunity to make representations; and
- (b) if any person upon whom the order was served so requests in writing, inspect the property in the presence of that person,

and shall confirm or refuse to confirm the order.

(21i) The municipality or the owner of the property affected by a decision of the committee under subsection (21h) may appeal the decision in the manner and within the time set out in subsection (19). Appeal

(21j) Where an order made under subsection (21c) is confirmed by the committee and not appealed, or where on appeal the order is confirmed by the judge, the municipality has a lien or charge upon the lands named in the order for the amount expended by or on behalf of the municipality, enforceable as provided in subsections (21a) and (21b). Lien if
order
confirmed

- 2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3. The short title of this Act is the *Planning Amendment Act, 1982*. Short title

An Act to amend the Planning Act

1st Reading

April 15th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Province of Ontario Savings Office

MR. PHILIP

EXPLANATORY NOTE

The Bill provides for an expanded Province of Ontario Savings Office with the power to make loans and offer financial services as well as receive deposits.

BILL 64

1982

An Act respecting the Province of Ontario Savings Office

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

(a) "Fund" means the Savings Office Fund;

(b) "Minister" means the Minister of Revenue;

(c) "Province of Ontario Savings Office" and "Savings Office" mean the savings deposit facility operated under the *Agricultural Development Finance Act*;

R.S.O. 1980,
c. 10

(d) "branch" means a branch of the Savings Office.

2. The Province of Ontario Savings Office is continued under the administration of the Minister.

Savings
Office
continued

3. The Minister may establish and operate branches at such places in Ontario as he may choose.

Branches

4.—(1) The Minister may receive moneys on deposit in accordance with the regulations.

Deposits

(2) All moneys received on deposit and all moneys held on deposit by the Savings Office on the day this Act comes into force form part of the Fund.

Part of
Fund

(3) Moneys deposited with the Minister under this Act are subject to attachment in the same manner as moneys deposited in a chartered bank.

Deposits
subject to
attachment

5. The Minister may,

Investments
and loans

(a) invest any moneys in the Fund in such securities and real property as he may choose; and

- (b) subject to the regulations, lend any moneys in the Fund upon such terms as may be agreed upon by the Minister and the borrower, may take security for any loan and may realize upon any security.

Financial
services

6. The Minister may,

- (a) make contracts with any person for the rental of safety deposit boxes at branches;
- (b) act as an agent for the sale of Canada Savings Bonds and travellers' cheques; and
- (c) offer such other financial services as may be prescribed by regulation.

Expenses
to be paid
from Fund

7.—(1) All expenses of administering this Act, including interest payable on deposits, shall be paid from the Fund.

Surplus

(2) Any surplus in the Fund from time to time may be paid into the Consolidated Revenue Fund.

Annual
statements

8. The Minister shall within a reasonable time after the end of each fiscal year prepare and table detailed financial statements for the Fund.

Regulations

9. The Lieutenant Governor in Council may make regulations,

- (a) fixing the terms and conditions on which deposits are received;
- (b) governing the making of loans from the Fund and the taking of security;
- (c) prescribing additional financial services.

R.S.O. 1980,
c.10,
repealed
Commence-
ment

10. The *Agricultural Development Finance Act* is repealed.

11. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Savings Office Act, 1982*.

An Act respecting the Province of Ontario
Savings Office

1st Reading

April 16th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to prevent Conflicts of
Interest in the Proceedings of Administrative Tribunals**

MR. PHILIP

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill prohibits former members and officers of tribunals subject to Part I of the *Statutory Powers Procedure Act* from acting as advocates before those bodies for a two-year period after ceasing to hold their positions. The same restriction is imposed on former ministers and deputy ministers in connection with tribunals under the administration of their former ministries.

The maximum penalty is \$10,000.

BILL 65

1982

An Act to prevent Conflicts of Interest in the Proceedings of Administrative Tribunals

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "tribunal" means a tribunal to which Part I of the *Statutory Powers Procedure Act* applies.

Interpre-
tation
R.S.O. 1980,
c. 484

2. No person shall, for a period of two years from the day on which he ceases to be a member or officer of a tribunal,

Conflict of
interest

(a) appear as counsel or agent for any party before the tribunal; or

(b) prepare any written material that includes his name or other identification for submission to the tribunal, except on his own behalf.

3. No person shall, for a period of two years from the day on which he ceases to be a minister of the Crown or a deputy minister,

Idem

(a) appear as counsel or agent for any party before a tribunal that is under the administration of his former ministry; or

(b) prepare any written material that includes his name or other identification for submission to such a tribunal, except on his own behalf.

4. Every person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offence

5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

6. The short title of this Act is the *Tribunals Conflict of Interest Act, 1982*.

An Act to prevent Conflicts
of Interest in the Proceedings of
Administrative Tribunals

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to repeal a provision of the Act that prohibits the inclusion of security guards in a bargaining unit. The repeal of this provision would permit security guards to join or establish an association or union for collective bargaining purposes.

BILL 66

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed. s. 12,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Labour Relations Amendment Act*, Short title
1982.

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to delete the exclusion from the definition of "employee" of persons who exercise managerial functions. The effect of the amendment is to permit these persons to join or establish an association or union for collective bargaining purposes.

BILL 67

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (3) (b) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 1 (3) (b),
re-enacted

(b) who, in the opinion of the Board, is employed in a confidential capacity in matters relating to labour relations.
2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
3. The short title of this Act is the *Labour Relations Amendment Act*, 1982.

Short title

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

**An Act to amend the
Crown Employees Collective Bargaining Act**

MR. MACKENZIE

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The purpose of the Bill is to repeal certain provisions of the *Crown Employees Collective Bargaining Act* that restrict the composition of collective agreements negotiated under the Act.

SECTION 1. Section 14, as it now reads, is set out below:

14. *No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation.*

SECTION 2. Subsection 16 (3), as it now reads, is set out below:

- (3) *No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.*

SECTION 3. Subsection 18 (1), as it now reads, is set out below:

- (1) *Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine,*
- (a) employment, appointment, complement, organization, assignment, discipline, dismissal, suspension, work methods and procedures, kinds and locations of equipment and classification of positions; and*
 - (b) merit system, training and development, appraisal and superannuation, the governing principles of which are subject to review by the employer with the bargaining agent,*

and such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

BILL 68

1982

An Act to amend the Crown Employees Collective Bargaining Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 14 of the *Crown Employees Collective Bargaining Act*, ^{s. 14,} being chapter 108 of the Revised Statutes of Ontario, 1980, is ^{repealed} repealed.
2. Subsection 16 (3) of the said Act is repealed. s. 16 (3),
repealed
3. Subsection 18 (1) of the said Act is repealed. s. 18 (1),
repealed
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is the *Crown Employees Collective Bargaining Amendment Act, 1982*. Short title

An Act to amend
the Crown Employees Collective
Bargaining Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Employment of
Disabled Persons**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to provide employment opportunities for disabled persons. The Bill requires that employers hire disabled persons to constitute at least 3 per cent of the employer's work force. The Bill permits the Minister to vary this percentage requirement in cases where the Minister considers another quota to be more suitable. In addition, the Minister may exempt an employer or class of employers from the operation of the statute. The Bill establishes a register of employable disabled persons to be maintained by the Ministry for the purpose of facilitating efforts by employers to meet the quota established by this Bill.

BILL 69

1982

An Act to provide for the Employment of Disabled Persons

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "disabled person" means any person suffering from a serious and prolonged physical disability;
- (b) "Minister" means the Minister of Labour;
- (c) "Ministry" means the Ministry of Labour;
- (d) "register" means the register of disabled persons established under section 4.

2.—(1) Every employer shall ensure that at any point in time the number of disabled persons who are employees of the employer is at least 3 per cent of the total number of employees of the employer.

Employment
of disabled
persons

(2) Notwithstanding subsection (1), the Minister may, by order, establish a quota for an employer or class of employers that is greater or less than the quota established under subsection (1) where the Minister is of the opinion that the quota established under subsection (1) is not suitable to that employer or class of employers.

Minister
may set
quota

3.—(1) No employer shall hire any person other than a disabled person if the number of disabled persons employed by the employer is less than the employer's quota established under section 2.

Prohibition

(2) Subsection (1) does not apply to an employer who hires a person,

Exception

- (a) as a result of an agreement to reinstate the person entered into before the day on which this Act comes into force;
- (b) in accordance with an order or permit issued by the Minister under section 5.

Register

4.—(1) The Ministry shall establish and maintain a register of disabled persons for the purpose of facilitating the hiring by employers of disabled persons and the register shall record the name, address, qualifications, skills and the nature of the disability of each person registered therein.

Disabled person entitled to be registered

(2) Upon application, a person is entitled to be registered by the Ministry as a disabled person for the purposes of this Act if,

- (a) the person suffers from a physical disability that harms the person's prospects in obtaining employment; and
- (b) the person is capable of performing work in one or more work situations without causing danger to other employees.

Exemption order

5. Upon application, the Minister may, by order,

- (a) exempt an employer or class of employers from the operation of this Act;
- (b) permit an employer to hire one or more persons who are not disabled persons for purposes set forth in the order.

Offence

6.—(1) Every employer who contravenes this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$1,000; or
- (b) if a corporation, to a fine of not more than \$10,000.

Opportunity to comply

(2) No prosecution against an employer shall be instituted under this Act unless the employer is notified of the intent to bring a prosecution and afforded a reasonable opportunity to show or achieve compliance with this Act.

Regulations

7. The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional types of information to be recorded in respect of each disabled person registered in the register;
- (b) governing the types of information to be supplied to the Ministry by each disabled person registered in the register;
- (c) governing records to be kept and reports to be provided by each employer concerning the disabled persons employed by the employer.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

9. The short title of this Act is the *Disabled Persons Employment Act, 1982*. Short title

An Act to provide for the
Employment of Disabled Persons

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to ensure that no employee engaged in the preparation or service of food in a tavern, restaurant, hotel, motel or tourist resort be required, as a term or condition of employment, to work while nude or partially nude.

BILL 70

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 15a,
enacted

15a.—(1) No employer shall require as a term or condition of employment that a person engaged in the preparation or service of food or drink in a tavern, restaurant, hotel, motel or tourist resort be nude or partially nude while so engaged. No employer
to require
nudity

(2) In subsection (1), a person is partially nude when the person is dressed in such a manner that one or more parts of the body that are usually clothed in public are visibly exposed to public view. Interpre-
tation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Employment Standards Amendment Act, 1982*. Short title

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to require an employer to provide a leave of absence to any employee who has been elected to provincial or municipal office so that the employee may be able to carry out the duties of an elected official.

BILL 71

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Part XI-A
(ss. 39a-39d),
enacted

PART XI-A

ELECTED OFFICIAL LEAVE

39a. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under this Part by reason of that employee being an elected official. Elected
official
leave

39b.—(1) An employee who has been elected to the Legislative Assembly or to a municipal public office and who has been employed by the employer for a period of three months preceding the date of the election shall be entitled upon application therefor to a leave of absence for the purpose of carrying out his duties as an elected official. When leave
to be taken

(2) A leave of absence under this Part may be for a continuous period consisting of the whole or a part of the term of office to which the person was elected or for such intermittent periods of time during the day or week as the employee may feel is necessary to fulfil his duties as an elected official. Duration
of leave

(3) Where a leave of absence is for a continuous period, the employee shall give the employer two weeks notice in writing of the day upon which the employee intends to commence the leave and shall set out in this notice the estimated duration of the leave. Notice

Idem

(4) Where a leave of absence is for intermittent periods, the employee shall give to the employer notice in writing prior to commencing the leave of regular periods of time during the day or week that the employee intends to be on leave, but the employee is entitled to a leave of absence at other times where such leave is necessary for the employee to fulfil his duties as an elected official.

Preservation
of seniority

39c.—(1) An employee who intends to resume full-time employment upon ceasing to be an elected official shall so advise the employer, and, upon returning to work, the employer shall reinstate or continue the employee in his position or provide alternative work of a comparable nature at not less than the wages of the employee at the time the leave of absence began and without loss of seniority or benefits accrued to the expiration of the term of office other than seniority or benefits accrued during the times that the employee was on leave.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence of the employee and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection (1).

Employment
standards
officer
may make
order

39d. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director, in trust, for the employee.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Employment Standards Amendment Act, 1982*.

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to clarify that the *Labour Relations Act* applies to employees who are engaged in agricultural employment in an industrial or factory setting. Section 2 (b) of the Act currently states that the Act does not apply "to a person employed in agriculture". This provision has been interpreted broadly by the Ontario Labour Relations Board to exclude from the Act persons whose employment relates to agriculture but who are employed in organizations that resemble industrial plants.

BILL 72

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 2 (*b*) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(*b*) to a person employed in agriculture on a farm by a person who is a farmer;

(*ba*) to a person employed in hunting or trapping.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Labour Relations Amendment Act, 1982*. Short title

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to reduce the percentage of employees in a bargaining unit required to be members of a trade union in order for the Board to direct a representation vote. The proposed amendment requires the Board to certify a trade union as a bargaining agent without a representation vote where the Board is satisfied that more than 50 per cent of the members of the bargaining unit are members of the trade union. A representation vote held under this section must be held within seven days of the day on which the Board directs the vote.

BILL 73

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 7 (2) and (3) of the *Labour Relations Act*, being ^{s. 7 (2, 3), re-enacted} chapter 228 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(2) If the Board is satisfied that not less than 35 per cent and not more than 50 per cent of the employees in the bargaining unit are members of the trade union, the Board shall direct that a representation vote be taken within seven days of the day on which the direction is made. ^{Determination of members in bargaining unit}

(3) If on the taking of a representation vote more than 50 per cent of the ballots cast are in favour of the trade union, the Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit. ^{Certification after vote}

(4) If the Board is satisfied that more than 50 per cent of the employees in the bargaining unit are members of the trade union, the Board shall certify the trade union as bargaining agent without taking a representation vote. ^{Certification without vote}

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
3. The short title of this Act is the *Labour Relations Amendment Act*, ^{Short title} 1982.

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of Part XII of the *Employment Standards Act* to employees who are employed for a definite term or task and to persons who are laid off or terminated during or as a result of a strike or lock-out at his place of employment.

BILL 74

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 40 (3) (a) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed. s. 40 (3) (a),
repealed
2. Notwithstanding clause 2 (d) of Regulation 286 of Revised Regulations of Ontario, 1980, it is hereby declared that Part XII of the *Employment Standards Act* applies to a person who is laid off or terminated during or as a result of a strike or lock-out at his place of employment. Declaration re
R.R.O. 1980,
Reg. 286,
s. 2 (d)
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Employment Standards Amendment Act, 1982*. Short title

An Act to amend the
Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to preserve the collective bargaining rights of employees of a business that is relocated. In addition to continuing pre-relocation bargaining rights and collective agreements in force after the relocation, the proposed amendment provides for a sixty day period from the date of the notice of relocation during which an employee can choose to continue his employment at the new location. Once the relocation has taken place, the Ontario Labour Relations Board has authority to determine whether a bargaining unit exists.

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 63 (1) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by inserting after "section" in the first line "and section 55a". s. 63 (1),
amended

2. The said Act is amended by adding thereto the following section: s. 63a,
enacted

63a.—(1) Where an employer relocates his business, the employer is bound by determinations, agreements and proceedings made under this Act in respect of the business before the date of the relocation until the Board otherwise declares, and the determinations, agreements and proceedings shall continue in effect as if no change had occurred except that the description of the bargaining unit contained in the certificate or collective agreement is deemed to be amended to include the new location. Relocation
rights

(2) An employer shall provide reasonable notice to his employees of any decision to relocate his business and the employer shall permit an employee affected thereby sixty days from the date of the notice of relocation to accept employment at the new location. Continuation
of
employment

(3) Notwithstanding subsection (2), an employer is not required to continue the employment of an employee if the employer no longer requires work to be performed in the new location of the same nature as work performed by the employee in the former location and the employer no longer requires the skills possessed by the employee for any work performed at the new location. Exception

(4) Where a business has been relocated and a trade union or council of trade unions was the bargaining agent of any of the employees of the business in the former location or a trade union or council of trade unions is the bargaining agent of the employees of a similar business being carried on in the area of the new location, and, Remedial
power of
Board

- (a) any question arises concerning the application of this section; or
- (b) any person, trade union or council of trade unions claims that, by virtue of the operation of subsection 1, a conflict exists between the bargaining rights of the trade union or council of trade unions that was the bargaining agent of the employees of the business in the former location and a trade union or council of trade unions that represents employees of a similar business being carried on in the area of the new location,

the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (c) define the composition of the bargaining unit for the business in the new location and certify a trade union or council of trade unions as the bargaining agent of employees in the bargaining unit; and
- (d) amend, to such extent as the Board considers necessary, any bargaining unit in any certificate issued to a trade union or council of trade unions before the relocation or any bargaining unit defined in any collective agreement concluded before the relocation.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1982*.

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 11 (2), as amended, would read as follows:

- (2) *Subclause (1) (a) (iii) does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.*

SECTION 2. Section 17, as amended, would read as follows:

17. *Except as otherwise provided in this Part, and subject to any schedule in force under the Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.*

SECTION 3. Section 18, as amended, would read as follows:

18. *An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.*

SECTION 4. Subsection 20 (3), as amended, would read as follows:

- (3) *The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.*

SECTION 5. Subsection 25 (1), as amended, would read as follows:

- (1) *Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.*

BILL 76

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 11 (2) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by striking out "forty-four" in the fifth line and inserting in lieu thereof "forty". s. 11 (2),
amended
2. Section 17 of the said Act is amended by striking out "forty-eight" in the fourth line and inserting in lieu thereof "forty". s. 17,
amended
3. Section 18 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 18,
amended
4. Subsection 20 (3) of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 20 (3),
amended
5. Subsection 25 (1) of the said Act is amended by striking out "forty-four" in the third line and in the fourth line and inserting in lieu thereof in each instance "forty". s. 25 (1),
amended
6. This Act comes into force on the day it receives Royal Assent. Commence-
ment
7. The short title of this Act is the *Employment Standards Amendment Act, 1982*. Short title

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to protect the employment of an employee who attempts to enforce the provisions of this or any other Act or who testifies or otherwise participates in a proceeding or hearing under this or any other Act or before a court of law.

BILL 77

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 9a,
enacted

9a. No employer shall,

No discipline,
dismissal, etc.,
by employer

(a) dismiss or threaten to dismiss an employee;

(b) discipline or suspend an employee;

(c) impose any penalty upon an employee; or

(d) intimidate or coerce an employee,

because the employee,

(e) has sought the enforcement of this or any other Act or regulations made thereunder;

(f) has given information to an employment standards officer;

(g) has participated in or is about to participate in a proceeding or hearing under this or any other Act or before a court of law;

(h) testifies or is about to testify in a proceeding or hearing under this or any other Act or before a court of law.

- 2.—(1) Subsection 57 (1) of the said Act is repealed.

s. 57 (1),
repealed

s. 57 (2),
amended

- (2) Subsection 57 (2) of the said Act is amended by striking out "subsection (1)" in the second line and inserting in lieu thereof "section 9a".

Commence-
ment

- 3.** This Act comes into force on the day it receives Royal Assent.

Short title

- 4.** The short title of this Act is the *Employment Standards Amendment Act, 1982*.

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of this Bill is to establish a standard relating to the installation and operation of electronic surveillance systems in places of employment. The Bill permits the installation of these systems only where it is reasonably necessary for the protection of the health or safety of employees. The onus of establishing that the installation and operation of a surveillance system is reasonably necessary for this purpose is placed upon the employer.

BILL 78

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 15a,
enacted

15a. No employer shall install or operate an electronic surveillance device or system in a place of employment to record or monitor the work and other activities of his employees unless the installation and operation of such device or system is reasonably necessary, the proof of which lies upon the employer, for the protection of the health and safety of the employees. Electronic
surveillance

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Employment Standards Amendment Act, 1982*. Short title

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to clarify the status of an employer before the Ontario Labour Relations Board on an application for certification by a trade union. The employer is permitted to present evidence and make submissions concerning several matters listed in the Bill. The employer is not permitted to present evidence or make submissions related to any other matter.

BILL 79

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 9a,
enacted

9a. Upon an application for certification, an employer or employers' organization may present evidence and make submissions to the Board with respect to, Employers'
evidence in
certification
proceeding

- (a) the jurisdiction of the Board;
- (b) the appropriateness of the bargaining unit;
- (c) the status of employees of the employer, including whether or not a person is an employee, a dependent contractor or a security guard; and
- (d) the conduct of the employer, where another party made an allegation concerning the conduct of the employer,

but the Board shall not receive evidence or hear submissions from the employer or employers' organization with respect to any other matter.

2. Subsection 102 (13) of the said Act is amended by inserting after "but" in the second line "subject to section 9a". s. 102 (13),
amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Labour Relations Amendment Act*, 1982. Short title

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to provide the Ontario Labour Relations Board with authority to settle the terms and conditions of a first collective agreement between a trade union and an employer where the dispute settlement procedures in the Act have not been effective. Each collective agreement settled by the Board shall be for a term of between one and two years in duration.

BILL 80

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 39a,
enacted

39a.—(1) Where the parties have engaged in bargaining with a view to concluding their first collective agreement and either party is of the opinion that the dispute settlement procedures of the Act have not been effective and are not likely to be effective in enabling the parties to conclude an agreement, the party may apply to the Board to settle the terms and conditions of the first collective agreement and, if the Board considers it advisable, the Board may settle the terms and conditions of the first collective agreement. First
collective
agreement

(2) The terms and conditions of a first collective agreement as determined by the Board shall be deemed to constitute the collective agreement between the parties and are binding upon them except to the extent that the parties agree in writing to vary any or all of those terms and conditions. Terms and
conditions
binding

(3) The collective agreement settled by the Board under this section shall be for a term of from one to two years duration from the date the Board settles the terms and conditions of the collective agreement. Duration of
agreement

2. Subsection 61 (1) of the said Act is repealed and the following substituted therefor: s. 61 (1),
re-enacted

(1) Subject to subsection (3), where a trade union has not made a collective agreement within one year after its certification and the Minister has appointed a conciliation officer or a mediator under this Act or a party to collective Application
for certi-
fication or
termination
after
conciliation

bargaining has requested the Board to settle the terms and conditions of a first collective agreement, no application for certification of a bargaining agent of, or for a declaration that a trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made until,

- (a) thirty days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator; or
- (b) thirty days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board; or
- (c) six months have elapsed after the Minister has released to the parties a notice of a report of the conciliation officer that the differences between the parties concerning the terms of a collective agreement have been settled; or
- (d) six months have elapsed after the Board has notified the parties of a refusal to settle the terms and conditions of a first collective agreement,

as the case may be.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1982*.

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of this Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill.

BILL 81

1982

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 67a,
enacted

67a.—(1) In this section,

Interpre-
tation

- (a) "employer" includes an employers' organization and a person acting on behalf of an employer or an employers' organization;
- (b) "legal picket line" means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless, Unlawful
employment

- (a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or
- (b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless, Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;
- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

**Duty of
police
officer**

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection (3) enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection (3) or who, upon gaining entry, performs work contrary to subsection (2), commits a trespass and is liable to proceedings under the *Trespass to Property Act*.

R.S.O. 1980,
c. 511

**Commence-
ment**

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Labour Relations Amendment Act, 1982*.

An Act to amend the
Labour Relations Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTES

SECTION 1. The proposed new section 29 increases the vacation period to which an employee is entitled under the Act. Currently, the Act provides a two week vacation period for each employee that does not vary with the amount of employment service.

SECTION 2. The proposed amendment is complementary to section 1 of the Bill. Subsection 3Q (1) of the Act as it currently reads is set out below with the amended portions underlined.

- (1) *The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.*

SECTION 3. The proposed amendment is complementary to section 1 of the Bill. Section 31 of the Act as it currently reads is set out below with the amended portions underlined.

31. *Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid.*

BILL 82

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 29,
re-enacted

29.—(1) Every employer shall give to each employee a vacation with pay of at least, Vacations

- (a) two weeks in each year upon the completion of twelve months of employment;
- (b) three weeks in each year upon the completion of sixty months of employment; and
- (c) four weeks in each year upon the completion of 120 months of employment.

(2) The amount of pay for a vacation shall be not less than an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under subsection (1) and in calculating wages no account shall be taken of any vacation pay previously paid. Idem

2. Subsection 30 (1) of the said Act is repealed and the following substituted therefor: s. 30 (1),
re-enacted

(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a consecutive period or periods of one week each, but in any case the employee shall be given his vacation not later than six months after the end of the twelve month period for which the vacation was given. When
vacation
to be taken

3. Section 31 of the said Act is repealed and the following substituted therefor: s. 31,
re-enacted

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under section 29, and in calculating wages no account shall be taken of any vacation pay previously paid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Employment Standards Amendment Act, 1982*.

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Employment Standards Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of the whole Act to the Crown. Currently, Parts IX, X, XI and XII of the Act apply to the Crown.

BILL 83

1982

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (1) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 2 (1),
re-enacted

(1) This Act applies to the Crown, every agency thereof and any board, commission, authority or corporation that exercises any functions assigned or delegated to it by the Crown. Application
of Act
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Employment Standards Amendment Act, 1982*. Short title

An Act to amend
the Employment Standards Act

1st Reading

April 19th, 1982

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTES

The Bill revises the current system of registering vehicles and assigning number plates to vehicles.

A permit will be issued consisting of a vehicle portion that will tie number plates to a vehicle and a plate portion that will tie the same number plates to a person. Upon the vehicle being sold or otherwise transferred, the transferor will remove the plates from the vehicle and will retain the plate portion of the permit. The vehicle portion of the permit will be turned over to the transferee. The transferee will either affix his plates to the vehicle or obtain plates from the Ministry. In either case, he would surrender the vehicle portion of the permit and receive a new permit tying those plates to the vehicle and to him. Provision is made to allow a transferee six days to obtain a new permit.

Number plates, therefore, will never be transferred although any person may have several different number plates.

Permits, except for trailers, will continue to require periodic validation.

Provision is made for the issuing of various types of permits, such as, an unfit vehicle permit or a permit that is not validated, which will provide evidence of registration of the vehicle in the name of the owner but not permit the operation of the vehicle on the highway.

Provision is made for exemptions, by regulation, from provisions of the Bill and would deal with matters, such as, estate transfers and transfers by car dealers.

Provision is made in respect of vehicles that are leased for a year or more.

The Ministry will have authority to refuse to validate a permit where the applicant is in default of payment of parking fines or is indebted for vehicle-related fees or taxes.

Drivers will be required to carry the vehicle permit or a copy thereof and to surrender it to the police, on demand, for inspection.

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 6,
re-enacted

6.—(1) In this Part,

Interpre-
tation

- (a) "CAVR cab card" means a permit issued by the Ministry pursuant to the Canadian Agreement on Vehicle Registration;
- (b) "holder", when used in relation to a permit, means the person in whose name the plate portion of a permit is issued;
- (c) "lessee" means a person who has leased a vehicle for a period of not less than one year;
- (d) "number", when used in relation to a permit or plate means a number, a series of letters or a combination of letters and numbers, and "numbered", when so used, has a corresponding meaning;
- (e) "permit" means a permit issued under subsection 7 (3) consisting, except when the permit is a CAVR cab card, of a vehicle portion and a plate portion;
- (f) "police officer" includes an officer appointed for carrying out the provisions of this Act;
- (g) "prescribed" means prescribed by the regulations;
- (h) "validate" means render in force for the prescribed period of time and "validation" and "validated" have corresponding meanings.

Person
authorized
by Minister

(2) Where, in this Part, it is specified that an act may be done by the Ministry, it may be done by a person authorized by the Minister to do the act.

s. 7 (1),
re-enacted

2.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

Permit, etc.,
required

(1) No person shall drive a motor vehicle on a highway unless,

(a) there exists a currently validated permit for the vehicle;

(b) there are displayed on the vehicle, in the prescribed manner, number plates issued in accordance with the regulations showing the number of the permit issued for the vehicle; and

(c) there is affixed to a number plate displayed on the vehicle, in the prescribed manner, evidence of the current validation of the permit.

s. 7,
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsections:

Exemption for
subs. (1) (b, c)

(2a) Clauses (1) (b) and (c) do not apply in respect of a motor vehicle for which the permit is a CAVR cab card.

Permit for
trailer

(2b) No person shall draw a trailer on a highway unless,

(a) there exists a permit for the trailer; and

(b) there is displayed on the trailer, in the prescribed manner, a number plate showing the number of the permit issued for the trailer.

Permit to
be carried

(2c) Subject to subsection (2d), every driver of a motor vehicle on a highway shall carry,

(a) the permit for it or a true copy thereof; and

(b) where the motor vehicle is drawing a trailer, the permit for the trailer or a true copy thereof,

and shall surrender the permits or copies for inspection upon the demand of a police officer.

Idem

(2d) Where a permit is a CAVR cab card, the requirements of subsection (2c) apply to the original permit and not to a copy and to the permit from the jurisdiction that issued the number plates for the vehicle.

- (3) Subsection 7 (3) of the said Act is repealed and the following substituted therefor: s. 7 (3),
re-enacted

(3) The Ministry may issue a permit of any prescribed class, number plates and evidence of validation to any person who meets the requirements of this Act and the regulations. Issuance of
permits and
number plates

(3a) The Ministry may authorize number plates in an applicant's possession for use on a vehicle. Use of
plates

(3b) Validation of a permit may be refused where the permit holder is in default of payment of a fine imposed upon conviction for a parking infraction or indebted to the Treasurer of the Province of Ontario in respect of a vehicle-related fee or tax. Refusal to
validate

- (4) Clause 7 (14) (c) of the said Act is amended by inserting after "time" in the first line "or the method of determining the period of time". s. 7 (14) (c),
amended

- (5) Clause 7 (14) (d) of the said Act is repealed and the following substituted therefor: s. 7 (14) (d),
re-enacted

(d) prescribing fees for the issuance, validation and replacement of permits and number plates and of evidence of validation of permits and for any additional administrative proceedings arising therefrom;

(da) governing the manner of displaying number plates on motor vehicles and trailers or any class or type of either of them.

- (6) Clause 7 (14) (e) of the said Act is amended by striking out "and trailers" in the fourth line. s. 7 (14) (e),
amended

- (7) Clauses 7 (14) (f) and (g) of the said Act are repealed and the following substituted therefor: s. 7 (14) (f, g),
repealed

(f) respecting permits and number plates for use, on a temporary basis, on motor vehicles or trailers in the possession of,

(i) vehicle manufacturers,

(ii) vehicle dealers, or

(iii) persons in the business of repairing, customizing, modifying or transporting vehicles,

where the vehicles are not kept for private use or for hire and prescribing conditions under which such vehicles may be operated on the highway;

(g) classifying persons and vehicles and exempting any class of person or any class of vehicle from any requirement in this Part or any regulation made under this Part and prescribing conditions for any such exemptions;

(h) requiring the surrender of number plates;

(i) classifying permits, providing for the issuing or validating of any class of permit and the requirements therefor and for the issuing of number plates and evidence of validation and the requirements therefor;

(j) prescribing requirements for the purposes of subsections 10 (3) and (4).

Subs. 7 (15, 16),
repealed

(8) Subsections 7 (15) and (16) of the said Act are repealed.

s. 10,
re-enacted

3. Section 10 of the said Act is repealed and the following substituted therefor:

Where
transfer of
ownership or
end of lease

10.—(1) Upon the holder of a permit ceasing to be the owner or lessee of the motor vehicle or trailer referred to in the permit, he shall,

(a) remove his number plates from the vehicle;

(b) on the delivery of the vehicle to the new owner or the lessor, give the vehicle portion of the permit to the new owner or lessor, as the case may be; and

(c) retain the plate portion of the permit.

Re-issue of
permit

(2) Every person shall, within six days after becoming the owner of a motor vehicle or trailer for which a permit has been issued, apply to the Ministry, on the form provided therefor, for a new permit for the vehicle.

Temporary
use of
plates

(3) Notwithstanding section 12, a person to whom number plates have been issued under subsection 7 (3) for a vehicle he no longer owns or leases may affix the number plates to a similar class of vehicle that he owns or leases where he does so in accordance with the prescribed requirements.

Idem

(4) Notwithstanding section 7, a person may drive a motor vehicle or draw a trailer on a highway during the six day period referred to in subsection (2) where he complies with the prescribed requirements.

s. 11,
repealed

4. Section 11 of the said Act is repealed.

5.—(1) Clauses 12 (1) (a), (b), (c) and (d) of the said Act are repealed and the following substituted therefor: s. 12 (1) (a-d),
re-enacted

- (a) defaces or alters any number plate or evidence of validation furnished by the Ministry;
- (b) uses or permits the use of a defaced or altered number plate or evidence of validation;
- (c) without the authority of the permit holder, removes a number plate from a motor vehicle or trailer;
- (d) uses or permits the use of a number plate upon a vehicle other than a number plate authorized for use on that vehicle;
- (e) uses or permits the use of evidence of validation upon a number plate displayed on a motor vehicle other than evidence of validation furnished by the Ministry in respect of that motor vehicle; or
- (f) uses or permits the use of a number plate or evidence of validation other than in accordance with this Act and the regulations,

(2) Subsection 12 (2) and subsection (3), as re-enacted by section 196 of the Revised Statutes of Ontario, 1980, of the said Act are repealed. s. 12 (2, 3),
repealed

6. Section 14 of the said Act is repealed and the following substituted therefor: s. 14,
re-enacted

- 14.—(1) Where a police officer has reason to believe that, Improper
number
plate
- (a) a number plate attached to a motor vehicle or trailer,
 - (i) has not been authorized under this Act for use on that vehicle, or
 - (ii) was obtained by false pretences; or
 - (b) evidence of the validation of a permit displayed on a motor vehicle,
 - (i) was not furnished under this Act in respect of that motor vehicle, or
 - (ii) was obtained by false pretences,

the officer may take possession of the number plate and retain it until the facts in respect of the number plate or evidence of validation have been determined.

Invalid
cab card

(2) Where a police officer has reason to believe that a CAVR cab card produced by a driver as being the permit for the motor vehicle,

(a) was not furnished in accordance with this Act for that motor vehicle; or

(b) has been cancelled,

the officer may take possession of the CAVR cab card and retain it until the facts in respect of the card have been determined.

s. 15 (1),
amended

7.—(1) Subsection 15 (1) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (2),
amended

(2) Subsection 15 (2) of the said Act is amended by striking out “sections 7 and 10” in the second line and inserting in lieu thereof “section 7”.

s. 15 (3),
amended

(3) Subsection 15 (3) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (4),
amended

(4) Subsection 15 (4) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (5),
re-enacted

(5) Subsection 15 (5) of the said Act is repealed and the following substituted therefor:

Regulations

(5) The Lieutenant Governor in Council may make regulations providing for the temporary exemption of vehicles or any class thereof from section 7 or any provision thereof.

s. 34,
amended

8. Section 34 of the said Act is amended by striking out “registered” in the third line and in the sixth line.

s. 73,
repealed

9. Section 73 of the said Act is repealed.

s. 104 (2, 3),
repealed

10. Subsections 104 (2) and (3) of the said Act are repealed.

s. 171,
amended

11. Section 171 of the said Act is amended by striking out “registered” in the second line.

s. 181,
amended

12. Section 181 of the said Act is amended by adding thereto the following subsection:

(3) For the purposes of this Act, the holder of a permit as defined in section 6 shall be deemed to be the owner of the vehicle referred to in the permit if a number plate bearing a number that corresponds to the permit was displayed on the vehicle at the time an offence was committed unless the number plate was displayed thereon without his consent, the burden of proof of which shall be on the holder.

13.—(1) A permit issued under Part II of the *Highway Traffic Act* before the 1st day of December, 1982 shall be deemed to be a permit within the meaning of clause 6 (1) (e) of the *Highway Traffic Act* as re-enacted by section 1 of this Act.

(2) Notwithstanding clauses 10 (1) (b) and (c) of the *Highway Traffic Act*, where a person who is the holder of a permit referred to in subsection (1), ceases to be the owner of a motor vehicle or trailer referred to in the permit, he shall give the permit to the new owner.

14.—(1) This Act, except sections 8 and 11, comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Sections 8 and 11 come into force on the day this Act receives Royal Assent.

15. The short title of this Act is the *Highway Traffic Amendment Act, 1982*.

An Act to amend the
Highway Traffic Act

1st Reading

April 20th, 1982

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation
and Communications

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill revises the current system of registering vehicles and assigning number plates to vehicles.

A permit will be issued consisting of a vehicle portion that will tie number plates to a vehicle and a plate portion that will tie the same number plates to a person. Upon the vehicle being sold or otherwise transferred, the transferor will remove the plates from the vehicle and will retain the plate portion of the permit. The vehicle portion of the permit will be turned over to the transferee. The transferee will either affix his plates to the vehicle or obtain plates from the Ministry. In either case, he would surrender the vehicle portion of the permit and receive a new permit tying those plates to the vehicle and to him. Provision is made to allow a transferee six days to obtain a new permit.

Number plates, therefore, will never be transferred although any person may have several different number plates.

Permits, except for trailers, will continue to require periodic validation.

Provision is made for the issuing of various types of permits, such as, an unfit vehicle permit or a permit that is not validated, which will provide evidence of registration of the vehicle in the name of the owner but not permit the operation of the vehicle on the highway.

Provision is made for exemptions, by regulation, from provisions of the Bill and would deal with matters, such as, estate transfers and transfers by car dealers.

Provision is made in respect of vehicles that are leased for a year or more.

The Ministry will have authority to refuse to validate a permit where the applicant is in default of payment of parking fines or is indebted for vehicle-related fees or taxes.

Drivers will be required to carry the vehicle permit or a copy thereof and to surrender it to the police, on demand, for inspection.

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 6,
re-enacted

6.—(1) In this Part,

Interpre-
tation

- (a) "CAVR cab card" means a permit issued by the Ministry pursuant to the Canadian Agreement on Vehicle Registration;
- (b) "holder", when used in relation to a permit, means the person in whose name the plate portion of a permit is issued;
- (c) "lessee" means a person who has leased a vehicle for a period of not less than one year;
- (d) "number", when used in relation to a permit or plate means a number, a series of letters or a combination of letters and numbers, and "numbered", when so used, has a corresponding meaning;
- (e) "permit" means a permit issued under subsection 7 (3) consisting, except when the permit is a CAVR cab card, of a vehicle portion and a plate portion;
- (f) "police officer" includes an officer appointed for carrying out the provisions of this Act;
- (g) "prescribed" means prescribed by the regulations;
- (h) "validate" means render in force for the prescribed period of time and "validation" and "validated" have corresponding meanings.

Person
authorized
by Minister

(2) Where, in this Part, it is specified that an act may be done by the Ministry, it may be done by a person authorized by the Minister to do the act.

s. 7 (1),
re-enacted

2.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

Permit, etc.,
required

- (1) No person shall drive a motor vehicle on a highway unless,
- (a) there exists a currently validated permit for the vehicle;
 - (b) there are displayed on the vehicle, in the prescribed manner, number plates issued in accordance with the regulations showing the number of the permit issued for the vehicle; and
 - (c) there is affixed to a number plate displayed on the vehicle, in the prescribed manner, evidence of the current validation of the permit.

s. 7,
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsections:

Exemption for
subs. (1) (b, c)

(2a) Clauses (1) (b) and (c) do not apply in respect of a motor vehicle for which the permit is a CAVR cab card.

Permit for
trailer

- (2b) No person shall draw a trailer on a highway unless,
- (a) there exists a permit for the trailer; and
 - (b) there is displayed on the trailer, in the prescribed manner, a number plate showing the number of the permit issued for the trailer.

Permit to
be carried

(2c) Subject to subsection (2d), every driver of a motor vehicle on a highway shall carry,

- (a) the permit for it or a true copy thereof; and
- (b) where the motor vehicle is drawing a trailer, the permit for the trailer or a true copy thereof,

and shall surrender the permits or copies for inspection upon the demand of a police officer.

Idem

(2d) Where a permit is a CAVR cab card, the requirements of subsection (2c) apply to the original permit and not to a copy and to the permit from the jurisdiction that issued the number plates for the vehicle.

- (3) Subsection 7 (3) of the said Act is repealed and the following substituted therefor: s. 7 (3), re-enacted

(3) The Ministry may issue a permit of any prescribed class, number plates and evidence of validation to any person who meets the requirements of this Act and the regulations. Issuance of permits and number plates

(3a) The Ministry may authorize number plates in an applicant's possession for use on a vehicle. Use of plates

(3b) Validation of a permit may be refused where the permit holder is indebted to the Treasurer of the Province of Ontario in respect of a vehicle-related fee or tax. Refusal to validate

(3c) Where a person is in default of payment of a fine or part thereof imposed for a parking infraction associated with his permit, an order may be made under subsection 70 (2) of the *Provincial Offences Act* directing that the permit not be renewed by validation until the fine is paid. Idem R.S.O. 1980, c. 400

(4) Clause 7 (14) (c) of the said Act is amended by inserting after "time" in the first line "or the method of determining the period of time". s. 7 (14) (c), amended

(5) Clause 7 (14) (d) of the said Act is repealed and the following substituted therefor: s. 7 (14) (d), re-enacted

(d) prescribing fees for the issuance, validation and replacement of permits and number plates and of evidence of validation of permits and for any additional administrative proceedings arising therefrom;

(da) governing the manner of displaying number plates on motor vehicles and trailers or any class or type of either of them.

(6) Clause 7 (14) (e) of the said Act is amended by striking out "and trailers" in the fourth line. s. 7 (14) (e), amended

(7) Clauses 7 (14) (f) and (g) of the said Act are repealed and the following substituted therefor: s. 7 (14) (f, g), re-enacted

(f) respecting permits and number plates for use, on a temporary basis, on motor vehicles or trailers in the possession of,

(i) vehicle manufacturers,

(ii) vehicle dealers, or

- (iii) persons in the business of repairing, customizing, modifying or transporting vehicles,

where the vehicles are not kept for private use or for hire and prescribing conditions under which such vehicles may be operated on the highway;

- (g) classifying persons and vehicles and exempting any class of person or any class of vehicle from any requirement in this Part or any regulation made under this Part and prescribing conditions for any such exemptions;
- (h) requiring the surrender of number plates;
- (i) classifying permits, providing for the issuing or validating of any class of permit and the requirements therefor and for the issuing of number plates and evidence of validation and the requirements therefor;
- (j) prescribing requirements for the purposes of subsections 10 (3) and (4).

s. 7 (15, 16),
repealed

(8) Subsections 7 (15) and (16) of the said Act are repealed.

s. 10,
re-enacted

3. Section 10 of the said Act is repealed and the following substituted therefor:

Where
transfer of
ownership or
end of lease

10.—(1) Upon the holder of a permit ceasing to be the owner or lessee of the motor vehicle or trailer referred to in the permit, he shall,

- (a) remove his number plates from the vehicle;
- (b) on the delivery of the vehicle to the new owner or the lessor, give the vehicle portion of the permit to the new owner or lessor, as the case may be; and
- (c) retain the plate portion of the permit.

Re-issue of
permit

(2) Every person shall, within six days after becoming the owner of a motor vehicle or trailer for which a permit has been issued, apply to the Ministry, on the form provided therefor, for a new permit for the vehicle.

Temporary
use of
plates

(3) Notwithstanding section 12, a person to whom number plates have been issued under subsection 7 (3) for a vehicle he no longer owns or leases may affix the number plates to a similar class of vehicle that he owns or leases where he does so in accordance with the prescribed requirements.

(4) Notwithstanding section 7, a person may drive a motor vehicle or draw a trailer on a highway during the six day period referred to in subsection (2) where he complies with the prescribed requirements. Idem

4. Section 11 of the said Act is repealed.

s. 11,
repealed

5.—(1) Clauses 12 (1) (a), (b), (c) and (d) of the said Act are repealed and the following substituted therefor:

s. 12 (1) (a-d),
re-enacted

- (a) defaces or alters any number plate or evidence of validation furnished by the Ministry;
- (b) uses or permits the use of a defaced or altered number plate or evidence of validation;
- (c) without the authority of the permit holder, removes a number plate from a motor vehicle or trailer;
- (d) uses or permits the use of a number plate upon a vehicle other than a number plate authorized for use on that vehicle;
- (e) uses or permits the use of evidence of validation upon a number plate displayed on a motor vehicle other than evidence of validation furnished by the Ministry in respect of that motor vehicle; or
- (f) uses or permits the use of a number plate or evidence of validation other than in accordance with this Act and the regulations,

(2) Subsection 12 (2) and subsection (3), as re-enacted by section 196 of the Revised Statutes of Ontario, 1980, of the said Act are repealed.

s. 12 (2, 3),
repealed

6. Section 14 of the said Act is repealed and the following substituted therefor:

s. 14,
re-enacted

14.—(1) Where a police officer has reason to believe that,

Improper
number
plate

(a) a number plate attached to a motor vehicle or trailer,

(i) has not been authorized under this Act for use on that vehicle, or

(ii) was obtained by false pretences; or

(b) evidence of the validation of a permit displayed on a motor vehicle,

(i) was not furnished under this Act in respect of that motor vehicle, or

(ii) was obtained by false pretences,

the officer may take possession of the number plate and retain it until the facts in respect of the number plate or evidence of validation have been determined.

Invalid
cab card

(2) Where a police officer has reason to believe that a CAVR cab card produced by a driver as being the permit for the motor vehicle,

(a) was not furnished in accordance with this Act for that motor vehicle; or

(b) has been cancelled,

the officer may take possession of the CAVR cab card and retain it until the facts in respect of the card have been determined.

s. 15 (1),
amended

7.—(1) Subsection 15 (1) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (2),
amended

(2) Subsection 15 (2) of the said Act is amended by striking out “sections 7 and 10” in the second line and inserting in lieu thereof “section 7”.

s. 15 (3),
amended

(3) Subsection 15 (3) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (4),
amended

(4) Subsection 15 (4) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (5),
re-enacted

(5) Subsection 15 (5) of the said Act is repealed and the following substituted therefor:

Regulations

(5) The Lieutenant Governor in Council may make regulations providing for the temporary exemption of vehicles or any class thereof from section 7 or any provision thereof.

s. 34,
amended



8. Section 34 of the said Act is amended by striking out “registered” in the third line and in the sixth line.

s. 73,
repealed

9. Section 73 of the said Act is repealed.

- 10.** Subsections 104 (2) and (3) of the said Act are repealed. s. 104 (2, 3),
repealed
- 11.** Section 171 of the said Act is amended by striking out "registered" s. 171,
amended
in the second line.
- 12.** Section 181 of the said Act is amended by adding thereto the s. 181,
amended
following subsection:

(3) For the purposes of this Act, the holder of a permit as defined in section 6 shall be deemed to be the owner of the vehicle referred to in the permit if a number plate bearing a number that corresponds to the permit was displayed on the vehicle at the time an offence was committed unless the number plate was displayed thereon without his consent, the burden of proof of which shall be on the holder. Permit
holder
deemed
owner

- 13.—**(1) A permit issued under Part II of the *Highway Traffic Act* before the 1st day of December, 1982 shall be deemed to be a permit within the meaning of clause 6 (1) (e) of the *Highway Traffic Act* as re-enacted by section 1 of this Act. Extended
definition
of permit
- (2) Notwithstanding clauses 10 (1) (b) and (c) of the *Highway Traffic Act*, where a person who is the holder of a permit referred to in subsection (1), ceases to be the owner of a motor vehicle or trailer referred to in the permit, he shall give the permit to the new owner. Non-
application
of s. 10 (1)
(b, c) of
R.S.O. 1980,
c. 198
- 14.**  This Act comes into force on a day to be named by proclamation of  the Lieutenant Governor. Commence-
ment
- 15.** The short title of this Act is the *Highway Traffic Amendment Act, 1982*. Short title
1982.

An Act to amend the
Highway Traffic Act

1st Reading

April 20th, 1982

2nd Reading

June 14th, 1982

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation
and Communications

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 84

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 84

1982

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 6,
re-enacted

6.—(1) In this Part,

Interpre-
tation

- (a) "CAVR cab card" means a permit issued by the Ministry pursuant to the Canadian Agreement on Vehicle Registration;
- (b) "holder", when used in relation to a permit, means the person in whose name the plate portion of a permit is issued;
- (c) "lessee" means a person who has leased a vehicle for a period of not less than one year;
- (d) "number", when used in relation to a permit or plate means a number, a series of letters or a combination of letters and numbers, and "numbered", when so used, has a corresponding meaning;
- (e) "permit" means a permit issued under subsection 7 (3) consisting, except when the permit is a CAVR cab card, of a vehicle portion and a plate portion;
- (f) "police officer" includes an officer appointed for carrying out the provisions of this Act;
- (g) "prescribed" means prescribed by the regulations;
- (h) "validate" means render in force for the prescribed period of time and "validation" and "validated" have corresponding meanings.

Person
authorized
by Minister

(2) Where, in this Part, it is specified that an act may be done by the Ministry, it may be done by a person authorized by the Minister to do the act.

s. 7 (1),
re-enacted

2.—(1) Subsection 7 (1) of the said Act is repealed and the following substituted therefor:

Permit, etc.,
required

(1) No person shall drive a motor vehicle on a highway unless,

- (a) there exists a currently validated permit for the vehicle;
- (b) there are displayed on the vehicle, in the prescribed manner, number plates issued in accordance with the regulations showing the number of the permit issued for the vehicle; and
- (c) there is affixed to a number plate displayed on the vehicle, in the prescribed manner, evidence of the current validation of the permit.

s. 7,
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsections:

Exemption for
subs. (1) (b, c)

(2a) Clauses (1) (b) and (c) do not apply in respect of a motor vehicle for which the permit is a CAVR cab card.

Permit for
trailer

(2b) No person shall draw a trailer on a highway unless,

- (a) there exists a permit for the trailer; and
- (b) there is displayed on the trailer, in the prescribed manner, a number plate showing the number of the permit issued for the trailer.

Permit to
be carried

(2c) Subject to subsection (2d), every driver of a motor vehicle on a highway shall carry,

- (a) the permit for it or a true copy thereof; and
- (b) where the motor vehicle is drawing a trailer, the permit for the trailer or a true copy thereof,

and shall surrender the permits or copies for inspection upon the demand of a police officer.

Idem

(2d) Where a permit is a CAVR cab card, the requirements of subsection (2c) apply to the original permit and not to a copy and to the permit from the jurisdiction that issued the number plates for the vehicle.

- (3) Subsection 7 (3) of the said Act is repealed and the following substituted therefor: s. 7 (3),
re-enacted

(3) The Ministry may issue a permit of any prescribed class, number plates and evidence of validation to any person who meets the requirements of this Act and the regulations. Issuance of
permits and
number plates

(3a) The Ministry may authorize number plates in an applicant's possession for use on a vehicle. Use of
plates

(3b) Validation of a permit may be refused where the permit holder is indebted to the Treasurer of the Province of Ontario in respect of a vehicle-related fee or tax. Refusal to
validate

(3c) Where a person is in default of payment of a fine or part thereof imposed for a parking infraction associated with his permit, an order may be made under subsection 70 (2) of the *Provincial Offences Act* directing that the permit not be renewed by validation until the fine is paid. Idem

R.S.O. 1980,
c. 400

(4) Clause 7 (14) (c) of the said Act is amended by inserting after "time" in the first line "or the method of determining the period of time". s. 7 (14) (c),
amended

(5) Clause 7 (14) (d) of the said Act is repealed and the following substituted therefor: s. 7 (14) (d),
re-enacted

(d) prescribing fees for the issuance, validation and replacement of permits and number plates and of evidence of validation of permits and for any additional administrative proceedings arising therefrom;

(da) governing the manner of displaying number plates on motor vehicles and trailers or any class or type of either of them.

(6) Clause 7 (14) (e) of the said Act is amended by striking out "and trailers" in the fourth line. s. 7 (14) (e),
amended

(7) Clauses 7 (14) (f) and (g) of the said Act are repealed and the following substituted therefor: s. 7 (14) (f, g),
re-enacted

(f) respecting permits and number plates for use, on a temporary basis, on motor vehicles or trailers in the possession of,

(i) vehicle manufacturers,

(ii) vehicle dealers, or

- (iii) persons in the business of repairing, customizing, modifying or transporting vehicles,

where the vehicles are not kept for private use or for hire and prescribing conditions under which such vehicles may be operated on the highway;

- (g) classifying persons and vehicles and exempting any class of person or any class of vehicle from any requirement in this Part or any regulation made under this Part and prescribing conditions for any such exemptions;

- (h) requiring the surrender of number plates;

- (i) classifying permits, providing for the issuing or validating of any class of permit and the requirements therefor and for the issuing of number plates and evidence of validation and the requirements therefor;

- (j) prescribing requirements for the purposes of subsections 10 (3) and (4).

s. 7 (15, 16),
repealed

- (8) Subsections 7 (15) and (16) of the said Act are repealed.

s. 10,
re-enacted

- 3.** Section 10 of the said Act is repealed and the following substituted therefor:

Where
transfer of
ownership or
end of lease

10.—(1) Upon the holder of a permit ceasing to be the owner or lessee of the motor vehicle or trailer referred to in the permit, he shall,

- (a) remove his number plates from the vehicle;
- (b) on the delivery of the vehicle to the new owner or the lessor, give the vehicle portion of the permit to the new owner or lessor, as the case may be; and
- (c) retain the plate portion of the permit.

Re-issue of
permit

(2) Every person shall, within six days after becoming the owner of a motor vehicle or trailer for which a permit has been issued, apply to the Ministry, on the form provided therefor, for a new permit for the vehicle.

Temporary
use of
plates

(3) Notwithstanding section 12, a person to whom number plates have been issued under subsection 7 (3) for a vehicle he no longer owns or leases may affix the number plates to a similar class of vehicle that he owns or leases where he does so in accordance with the prescribed requirements.

(4) Notwithstanding section 7, a person may drive a motor vehicle or draw a trailer on a highway during the six day period referred to in subsection (2) where he complies with the prescribed requirements. Idem

4. Section 11 of the said Act is repealed.

s. 11,
repealed

5.—(1) Clauses 12 (1) (a), (b), (c) and (d) of the said Act are repealed and the following substituted therefor:

s. 12 (1) (a-d),
re-enacted

- (a) defaces or alters any number plate or evidence of validation furnished by the Ministry;
- (b) uses or permits the use of a defaced or altered number plate or evidence of validation;
- (c) without the authority of the permit holder, removes a number plate from a motor vehicle or trailer;
- (d) uses or permits the use of a number plate upon a vehicle other than a number plate authorized for use on that vehicle;
- (e) uses or permits the use of evidence of validation upon a number plate displayed on a motor vehicle other than evidence of validation furnished by the Ministry in respect of that motor vehicle; or
- (f) uses or permits the use of a number plate or evidence of validation other than in accordance with this Act and the regulations,

(2) Subsection 12 (2) and subsection (3), as re-enacted by section 196 of the Revised Statutes of Ontario, 1980, of the said Act are repealed.

s. 12 (2, 3),
repealed

6. Section 14 of the said Act is repealed and the following substituted therefor:

s. 14,
re-enacted

14.—(1) Where a police officer has reason to believe that,

Improper
number
plate

- (a) a number plate attached to a motor vehicle or trailer,
 - (i) has not been authorized under this Act for use on that vehicle, or
 - (ii) was obtained by false pretences; or

(b) evidence of the validation of a permit displayed on a motor vehicle,

(i) was not furnished under this Act in respect of that motor vehicle, or

(ii) was obtained by false pretences,

the officer may take possession of the number plate and retain it until the facts in respect of the number plate or evidence of validation have been determined.

Invalid
cab card

(2) Where a police officer has reason to believe that a CAVR cab card produced by a driver as being the permit for the motor vehicle,

(a) was not furnished in accordance with this Act for that motor vehicle; or

(b) has been cancelled,

the officer may take possession of the CAVR cab card and retain it until the facts in respect of the card have been determined.

s. 15 (1),
amended

7.—(1) Subsection 15 (1) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (2),
amended

(2) Subsection 15 (2) of the said Act is amended by striking out “sections 7 and 10” in the second line and inserting in lieu thereof “section 7”.

s. 15 (3),
amended

(3) Subsection 15 (3) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (4),
amended

(4) Subsection 15 (4) of the said Act is amended by striking out “sections 7 and 10” in the first line and inserting in lieu thereof “section 7”.

s. 15 (5),
re-enacted

(5) Subsection 15 (5) of the said Act is repealed and the following substituted therefor:

Regulations

(5) The Lieutenant Governor in Council may make regulations providing for the temporary exemption of vehicles or any class thereof from section 7 or any provision thereof.

s. 34,
amended

8. Section 34 of the said Act is amended by striking out “registered” in the third line and in the sixth line.

s. 73,
repealed

9. Section 73 of the said Act is repealed.

- 10.** Subsections 104 (2) and (3) of the said Act are repealed. s. 104 (2, 3),
repealed
- 11.** Section 171 of the said Act is amended by striking out "registered" in the second line. s. 171,
amended
- 12.** Section 181 of the said Act is amended by adding thereto the following subsection: s. 181,
amended
- (3) For the purposes of this Act, the holder of a permit as defined in section 6 shall be deemed to be the owner of the vehicle referred to in the permit if a number plate bearing a number that corresponds to the permit was displayed on the vehicle at the time an offence was committed unless the number plate was displayed thereon without his consent, the burden of proof of which shall be on the holder. Permit
holder
deemed
owner
- 13.—**(1) A permit issued under Part II of the *Highway Traffic Act* before the 1st day of December, 1982 shall be deemed to be a permit within the meaning of clause 6 (1) (e) of the *Highway Traffic Act* as re-enacted by section 1 of this Act. Extended
definition
of permit
- (2) Notwithstanding clauses 10 (1) (b) and (c) of the *Highway Traffic Act*, where a person who is the holder of a permit referred to in subsection (1), ceases to be the owner of a motor vehicle or trailer referred to in the permit, he shall give the permit to the new owner. Non-
application
of s. 10 (1)
(b, c) of
R.S.O. 1980,
c. 198
- 14.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
- 15.** The short title of this Act is the *Highway Traffic Amendment Act, 1982*. Short title

An Act to amend the
Highway Traffic Act

1st Reading

April 20th, 1982

2nd Reading

June 14th, 1982

3rd Reading

June 25th, 1982

THE HON. J. W. SNOW
Minister of Transportation
and Communications

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting the Establishment of Polling Places in
Residential Buildings**

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to require that a polling place for a provincial election be provided in all residential premises in which more than 250 voters reside. The Bill also requires that every landlord of residential premises in which more than 250 voters reside must make the premises available for use as a polling place during a provincial election.

BILL 85

1982

An Act respecting the Establishment of Polling Places in Residential Buildings

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 56 of the *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: R.S.O. 1980,
c. 133,
s. 56,
amended

(5a) A polling place shall be provided in every residential building in which, according to the list of voters prepared by the enumerators, more than 250 voters reside and every voter who is resident in the building shall be entered on the polling list for that polling place. Polling
places in
residential
buildings

2. The *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: R.S.O. 1980,
c. 232,
s. 94a,
enacted

94a. A landlord of residential premises in which 250 voters reside, or a servant or agent of such a landlord, shall permit an area of the premises to be used as a polling place in an election to the Legislative Assembly, and, upon receipt of a request from a returning officer, shall assist the returning officer to provide the polling place at a central and convenient location in the premises. Polling
place in
residential
premises

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Polling Places Act, 1982*. Short title

An Act respecting the Establishment
of Polling Places in Residential Buildings

1st Reading

April 20th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Display of Service Station Fuel Prices

MR. SAMIS

EXPLANATORY NOTE

The Bill provides that where the operator of a service station posts a sign displaying fuel prices to motorists, the price of every kind or grade of fuel for sale at the service station must be shown.

An Act respecting the Display of Service Station Fuel Prices

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "display" means to display by means of a sign that may be read by operators of motor vehicles from a highway;
- (b) "fuel" means any gas or liquid that may be used for the purpose of generating power by internal combustion;
- (c) "service station" means any premises at which fuel is sold and is put into the fuel tanks of motor vehicles or into portable containers.

2. No operator of a service station shall display or permit the display of the price of fuel for sale at the service station unless the price of every kind or grade of fuel for sale at the service station is displayed in the same manner. Prohibition

3. Every person who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. Penalty

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Fuel Price Display Act*, Short title
1982.

An Act respecting the Display
of Service Station Fuel Prices

1st Reading

April 20th, 1982

2nd Reading

3rd Reading

Mr. SAMIS

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting the Succession to Estates of Deceased
Persons in Ontario who have Beneficiaries residing in
Designated Countries**

MR. BREITHAUPT

EXPLANATORY NOTE

The purpose of the Bill is to ensure that payments from the estates of persons domiciled in Ontario at the time of death are not made to foreign beneficiaries who are unlikely to receive for their whole benefit or use substantially the full value of any payments made under the estate and who reside in certain countries designated by regulation. The Bill provides for an application to be made to a court for an order permitting payments to a foreign beneficiary. The court may also order that no payment be made to a foreign beneficiary, in which case the court shall make an order disposing of the estate in accordance with the rules of succession contained in the *Succession Law Reform Act* with necessary modifications.

BILL 87

1982

**An Act respecting the Succession to Estates of
Deceased Persons in Ontario who have
Beneficiaries residing in Designated Countries**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

- (a) "court" means a surrogate court or the Supreme Court of Ontario;
- (b) "deceased person" means a person who was domiciled in Ontario at the time of death;
- (c) "foreign beneficiary" means a person who ordinarily resides in a country designated in the regulations;
- (d) "payment" includes a payment, transfer, disposition or distribution of property;
- (e) "personal representative" means an executor, an administrator or an administrator with will annexed;
- (f) "property" means real or personal property;
- (g) "will" includes,
 - (i) a testament,
 - (ii) a codicil,
 - (iii) an appointment by will or by writing in the nature of a will in exercise of a power, and
 - (iv) any other testamentary disposition.

2. Where a will directs that a payment be made to a foreign beneficiary and where that foreign beneficiary makes an appli- Application
by foreign
beneficiary

cation to the court to vary the manner of payment, the court shall not give its consent to that application, unless the court is satisfied that,

- (a) the foreign beneficiary is likely to receive for his or her whole benefit or use or control substantially the full value of the payment being made to that person; and
- (b) in all the circumstances of the case the result would be just and equitable, having regard to the intentions of the deceased person, so far as ascertainable,

in which case the court may grant the application to vary the manner of payment or make such other order as it considers appropriate in the circumstances.

Application
by personal
representative
R.S.O. 1980,
c. 488

3.—(1) Where a foreign beneficiary is entitled under Part II of the *Succession Law Reform Act* to all or part of the property comprising the estate of a deceased person, the personal representative of the deceased person shall not make any payment to that person of all or any part of such property unless the personal representative makes application and obtains an order from the court permitting the payment to be made to that person.

Order by
court

(2) A court shall not make an order under subsection (1) unless the court is satisfied that,

- (a) the foreign beneficiary is entitled to property from the estate;
- (b) the foreign beneficiary is likely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; and
- (c) in all the circumstances of the case, the result would be just and equitable having regard to the intentions of the deceased person, so far as ascertainable,

in which case the court may make such order and may direct the payment to be made to the foreign beneficiary in such manner as it considers appropriate under the circumstances.

Idem

(3) Where the court has decided that no order should be made under subsection (2) because,

- (a) the foreign beneficiary would be unlikely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; or

- (b) in all the circumstances of the case, the result would not be just or equitable having regard to the intentions of the deceased person, so far as ascertainable,

the court may make such order and may direct such payment to be made to the foreign beneficiary in such manner as it considers appropriate or the court may refuse to direct any payment to be made to the foreign beneficiary of the deceased person, in which case the court shall make an order disposing of the estate of the deceased person in accordance with the provisions for succession contained in the *Succession Law Reform Act* with necessary modifications. R.S.O. 1980,
c. 488

4.—(1) Where a foreign beneficiary makes an application for an order under Part V of the *Succession Law Reform Act* for property from the estate of a deceased person, the court shall not make an order unless the court is satisfied that, Application
under
Part V of
R.S.O. 1980,
c. 488

- (a) the foreign beneficiary is entitled to property from that estate;
- (b) the foreign beneficiary is likely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; and
- (c) in all the circumstances of the case, the result would be just and equitable having regard to the intentions of the deceased person, so far as ascertainable,

in which case the court may make such order and direct the payment to be made to the foreign beneficiary in such manner as it considers appropriate under the circumstances.

(2) Where the court has decided that no order should be made under subsection (1) because, Idem

- (a) the foreign beneficiary would be unlikely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; or
- (b) in all the circumstances of the case, the result would not be just or equitable having regard to the intentions of the deceased person, so far as ascertainable,

the court may make such order and may direct such payment to be made to the foreign beneficiary in such manner as it considers

appropriate or the court may refuse to direct any payment to be made to the foreign beneficiary of the deceased person, in which case the court shall make an order disposing of the estate of the deceased person in accordance with the provisions for succession contained in the *Succession Law Reform Act* with necessary modifications.

R.S.O. 1980,
c. 488

Considerations
on application

5. Upon the hearing of an application under section 3 or 4, the court shall inquire into and consider all the circumstances of the application, including,

- (a) the proximity and duration of the foreign beneficiary's relationship with the deceased person;
- (b) where the foreign beneficiary is the spouse of the deceased person, a course of conduct by the spouse during the life-time of the deceased person that is an obvious and gross repudiation of the relationship;
- (c) the circumstances of the deceased person at the time of death;
- (d) any agreement between the deceased person and the foreign beneficiary; and
- (e) any previous distribution or division of property made by the deceased person in favour of the foreign beneficiary by gift or agreement or under court order.

Evidence

6.—(1) Upon the hearing of an application under section 2, 3 or 4, the court,

- (a) in addition to the evidence adduced by the parties appearing, may direct such other evidence to be given as the court considers necessary or proper; and
- (b) may accept such evidence as the court considers proper of the deceased person's intentions, so far as ascertainable, including any statement in writing signed by the deceased person.

Idem

(2) In estimating the weight to be given to a statement referred to in clause (1) (b), the court shall have regard to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement.

Penalty

7. Every person who contravenes subsection 3 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

8. The Lieutenant Governor in Council may make regula- Regulations
tions designating countries for the purpose of this Act.

9. This Act does not apply in respect of the estates of persons Application
who died before this Act came into force. of Act

10. This Act comes into force on the day it receives Royal Commence-
Assent. ment

11. The short title of this Act is the *Succession Law Act*, Short title
1982.

An Act respecting the Succession to Estates
of Deceased Persons in Ontario who have
Beneficiaries residing in Designated
Countries

1st Reading

April 22nd, 1982

2nd Reading

3rd Reading

MR. BREITHAUPF

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to regulate Trading in Franchises

MR. PHILIP

EXPLANATORY NOTE

The Bill provides a comprehensive scheme for the regulation, by the Ontario Securities Commission, of trading in franchises.

BILL 88

1982

An Act to regulate Trading in Franchises

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act, Interpre-
tation

- (a) "Commission" means the Ontario Securities Commission;
- (b) "company" means a corporation, incorporated association, incorporated syndicate or other incorporated organization;
- (c) "Director" means the Director or any Deputy Director of the Commission;
- (d) "file" means file with the Director in accordance with this Act and the regulations;
- (e) "franchise" means an agreement or arrangement whereby a franchisee obtains,
 - (i) the right to engage in the business of offering, selling or distributing the goods manufactured, processed or distributed or the services organized and directed by the franchisor,
 - (ii) the right to engage in the business of offering, selling or distributing any goods or services under a marketing plan or system prescribed or controlled by the franchisor,
 - (iii) the right to engage in a business which is associated with the franchisor's trademark, service mark, trade name, logotype, advertising or any business symbol designating the franchisor or its associates,

(iv) the right to engage in a business in which the franchisee is dependent on the franchisor for the continued supply of goods or services, or

(v) the right to recruit additional franchisees or subfranchisors,

but does not include agreements or arrangements between manufacturers;

(f) "franchisee" means a person to whom a franchise is granted;

(g) "franchisor" means a person who grants a franchise but does not include the Crown, a Crown agency or a municipal corporation;

(h) "material change" means a change in the business, operations or capital of a franchisor or proposed franchisor that would reasonably be expected to have a significant effect on the marketability or value of the franchise and includes a decision to implement such a change made by the board of directors of the franchisor or proposed franchisor or by senior management of the franchisor or proposed franchisor who believes that confirmation of the decision by the board of directors is probable;

(i) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act is assigned;

(j) "person" means an individual, partnership, company, unincorporated association, unincorporated organization, syndicate, trustee, executor, administrator or other legal representative;

(k) "prescribe" means prescribe by regulation under this Act;

(l) "regulations" means the regulations made under this Act;

(m) "telegram" includes a typed or printed message transmitted by telegraphic, telephonic or electronic means; and

(n) "trade" or "trading" includes,

- (i) a sale or disposition of or other dealing in respect of a franchise, or any attempt to do any of the foregoing, and
- (ii) any act, advertisement, conduct, negotiation or solicitation directly or indirectly in furtherance of any of the activities referred to in subclause (i).

(2) A company shall be deemed to be an affiliate of another company where one of them is the subsidiary of the other or where both are subsidiaries of the same company or where each of them is controlled by the same person. Affiliated companies

(3) A company shall be deemed to be controlled by another person or persons where, Controlled companies

- (a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or persons; and
- (b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

(4) A company shall be deemed to be a subsidiary of another company where, Subsidiary companies

- (a) it is controlled by,
 - (i) that other, or
 - (ii) that other and one or more companies each of which is controlled by that other, or
 - (iii) two or more companies each of which is controlled by that other; or
- (b) it is a subsidiary of a company that is that other's subsidiary.

REGULATION OF FRANCHISE TRADING

2. No person shall trade in a franchise on his own behalf or on behalf of another person unless a prospectus for the franchise has been filed and a receipt obtained therefor. Prospectus required

Exception	<p>3.—(1) Section 2 does not apply to the sale or offer for sale of a business by a franchisee where,</p> <ul style="list-style-type: none"> (a) a business is sold or offered for sale and includes the franchisee's rights in a franchise; (b) the sale or offer for sale is not effected by or through a franchisor; and (c) the franchisee retains no interest in the franchise other than as security for payment.
Supplemental material	<p>(2) A sale or offer for sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove a different franchisee.</p>
Prospectus	<p>4.—(1) A prospectus shall provide full, true and plain disclosure of all material facts relating to the franchise and shall comply with this Act and the regulations.</p>
Additional information	<p>(2) The Director may require such additional information as he considers necessary to be included in the prospectus.</p>
Material adverse change	<p>5.—(1) Where a material adverse change occurs after a prospectus has been filed, an amendment to the prospectus shall be filed as soon as is practicable and in any event within ten days after the change occurs.</p>
Prohibition	<p>(2) Where a material adverse change occurs after a receipt for a prospectus has been obtained, no person shall trade in the franchise on his own behalf or on behalf of another person until a receipt for the amended prospectus is obtained.</p>
Certificate of full disclosure	<p>6.—(1) A prospectus and an amendment to a prospectus shall contain a certificate in the following form:</p> <p style="padding-left: 40px;">The foregoing constitutes full, true and plain disclosure of all material facts relating to the franchise offered by this prospectus as required by the <i>Franchises Act, 1982</i> and the regulations thereunder.</p>
1982, c. ...	
Idem	<p>(2) The certificate referred to in subsection (1) shall be signed,</p> <ul style="list-style-type: none"> (a) where the proposed franchisor is a company, by the chief executive officer, the chief financial officer and, on behalf of the board of directors, any two directors of the company who are authorized to sign, or, in the case of a company with only one director, by the sole director;

- (b) where the proposed franchisor is not a company, by the sole proprietor or all the partners, unit holders, members or trustees, as the case may be.

7.—(1) Where a solicitor, auditor, accountant, engineer, appraiser or any other person whose profession gives authority to a statement made by him is named as having prepared or certified any part of the prospectus, his written consent to the inclusion of the report or valuation shall be filed with the Commission not later than the time the prospectus is filed. Consents of experts

(2) The Director may dispense with the filing of a consent Idem required by subsection (1) if, in his opinion, the filing is impracticable or involves undue hardship.

(3) The consent of an auditor or accountant referred to in Idem subsection (1),

(a) shall refer to the report required under the regulations, stating its date and the dates of the financial statements on which the reports are made; and

(b) shall contain a statement that he has read the prospectus and that the information contained in the prospectus which is derived from the financial statements contained in the prospectus or which is within his knowledge is, in his opinion, presented fairly and is not misleading.

(4) Where any person referred to in subsection (1),

Disclosure of interest

(a) has directly or indirectly received or expects to receive any interest, direct or indirect, in the property of the franchisor or an affiliate; or

(b) beneficially owns, directly or indirectly, any securities of the franchisor or an affiliate,

that interest or ownership shall be disclosed in the prospectus.

(5) Where a person referred to in subsection (1) is or is Idem expected to be elected, appointed or employed as a director, officer or employee of the franchisor or an affiliate, that fact shall be disclosed in the prospectus.

(6) When an amendment is proposed to be made in a prospectus that in the opinion of the Director materially affects any consent required by subsection (1), the Director may require that a further consent be filed with the Commission before a receipt for the amended prospectus is issued. Further consent

Security
for
performance

8. Where the Director finds that a proposed franchisor has failed to demonstrate that adequate financial arrangements have been made to fulfil the obligations set out in the prospectus, the Director may by order require the prospective franchisor to furnish a surety bond to protect prospective franchisees and may prescribe the form and amount of the bond.

Receipt
for
prospectus

9.—(1) The Director may in his discretion issue a receipt for any prospectus that has been filed unless it appears to the Director that,

(a) the prospectus or a document required to be filed with it,

(i) fails to comply in any substantial respect with any of the requirements of this Act or the regulations,

(ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or,

(iii) conceals or omits to state any material fact necessary in order to make any statement contained in it not misleading in the light of the circumstances in which it was made;

(b) it would not be in the public interest to do so because of,

(i) the criminal record or judgment debtor status of a person involved in the management of the franchise,

(ii) the financial position of the franchisor,

(iii) the business experience of the franchisor,

(iv) the ability of the franchisor to provide the goods and services outlined in the prospectus, or

(v) the experience or expertise of a person referred to in subsection 7 (1).

Thirty-day
period

(2) The Director shall make a determination under subsection (1) in writing within thirty days of the receipt of the prospectus and any amending document, and shall give the person who filed the prospectus an opportunity to be heard.

Bond

10. The Director may, and where so directed by the Commission shall,

- (a) require any franchisor to deliver a surety bond to the Commission within a specified time; or
- (b) require a franchisor who had previously delivered a surety bond to deliver a new bond, approved by the Director as to form and amount, to the Commission.

11.—(1) Where it appears to the Commission,

Order to
cease
trading

- (a) that any of the circumstances set out in section 9 exists;
- (b) that there has been a failure to comply with this Act or the regulations or any rule or order of the Commission;
or
- (c) that trading in the franchise would constitute deceit or fraud of the purchasers,

the Commission may order that all trading in the franchise shall cease.

(2) No order shall be made under subsection (1) without a hearing, unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of its making, unless the hearing is commenced, in which case the Commission may extend the order until the hearing is concluded.

Temporary
order
without
hearing

(3) A notice of every order made under this section shall be served on the person to whose franchise the prospectus relates and immediately upon service of the notice any receipt issued by the Director for the prospectus is revoked and no person shall thereafter trade in the franchise on his own behalf or on behalf of another person.

Effect of
order

12.—(1) Where a material change other than an adverse change occurs after a prospectus has been filed, an amendment to the prospectus shall be filed as soon as is practicable and in any event within ten days after the change occurs.

Material
change

(2) The Director may in his discretion issue or refuse to issue a receipt for the amended prospectus, but in no case shall a refusal be made without an opportunity to be heard.

Receipt

(3) Where the Director refuses to issue a receipt for a prospectus amended under subsection (1), no person shall thereafter trade in the franchise on his own behalf or on behalf of another person.

Prohibition

Renewal
statement
or other
filing

13.—(1) No person shall trade in a franchise on his own behalf or on behalf of another person after a day that is one year after,

- (a) the day on which a receipt for the prospectus was obtained;
- (b) the day on which a receipt for an amendment to the prospectus was obtained; or
- (c) the day on which a receipt for a renewal statement in the prescribed form was obtained,

whichever is the latest, unless a receipt for a renewal statement in the prescribed form has been obtained since the day described in clause (a), (b) or (c).

Idem

(2) The Director may in his discretion require the filing of a new prospectus in lieu of a renewal statement.

GENERAL

Representations
as to
prospectus

14.—(1) No person shall represent that a receipt has been issued for a prospectus unless the receipt has been issued.

Idem

(2) Where a receipt for a prospectus has been issued, a person may represent that a prospectus has been issued but may do so only in accordance with the regulations.

Prohibition

15. No person shall represent, in writing or orally, that the Commission has in any way passed on,

- (a) the financial standing, fitness or conduct of any franchisor;
- (b) the quality of any franchise; or
- (c) the results to be expected by a franchisee operating under the terms of the franchise.

Restriction
on
advertising

16.—(1) No person shall publish any advertisement offering a franchise unless a true copy of the advertisement has been filed at least three days before its publication.

Order by
Director

(2) Where the Director is of the opinion that an advertisement filed under subsection (1) contains a false, misleading or deceptive statement, he may order that it not be published or that its publication cease.

(3) No person shall publish or continue to publish an advertisement to which this section applies after the Director has notified him of an order under subsection (2). Offence

17. A franchisor offering franchises for sale shall keep complete books, records and accounts of his sales in Ontario, as prescribed, at his principal place of business in Ontario shown on the prospectus or renewal statement. Records

OFFENCES AND PENALTIES

18.—(1) A person who,

Offences
and penalties

(a) in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or a person appointed to make an investigation or audit under this Act makes a statement,

(i) that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to a material fact, or

(ii) that omits to state a material fact, the omission of which makes the statement false or misleading;

(b) in a prospectus, renewal statement or other document required to be filed or furnished under this Act or the regulations makes a statement,

(i) that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to a material fact, or

(ii) that omits to state a material fact, the omission of which makes the statement false or misleading;

(c) contravenes this Act or the regulations; or

(d) fails to observe or comply with an order, ruling, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to,

(e) in the case of an individual, a fine of not more than \$10,000; or

(f) in the case of a person who is not an individual, a fine of not more than \$100,000.

Idem (2) Where a company is guilty of an offence under subsection (1), every director or officer of the company who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Defence (3) No person is guilty of an offence under clause (1) (a) or (b) where he establishes that he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Limitation period **19.** No proceedings under section 18 shall be commenced more than five years after the facts on which the proceedings are based first came to the knowledge of the Commission.

CIVIL REMEDIES AND LIABILITIES

Delivery of prospectus **20.—**(1) An agreement to purchase a franchise is not binding on the franchisee until the franchisor has delivered to the purchaser a copy of the prospectus and, where applicable, all supporting documents required under subsection 4 (2), all amendments to the prospectus and all renewal statements.

Right to rescind (2) The purchaser may rescind the agreement to purchase a franchise within four days, exclusive of Saturdays and holidays, after receiving all the documents referred to in subsection (1).

Idem (3) Where a material change occurs before an agreement to purchase a franchise is completed, the franchisor shall deliver an amendment to the prospectus to the purchaser as soon as is practicable and the purchaser may rescind the agreement within four days, exclusive of Saturdays and holidays, after receiving the amendment.

Notice of rescission (4) A purchaser may rescind an agreement under subsection (2) or (3) by delivering written notice of rescission to the franchisor or to the franchisor's agent or solicitor.

Contents of prospectus (5) Every prospectus shall contain a statement of the rights given to a purchaser by this section.

Right to rescind **21.—**(1) A franchisee has a right to rescind the agreement while still the owner of the franchise if the documents delivered under subsection 20 (1), at the time of delivery, contained an untrue statement of a material fact or omitted to state a material

fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made.

(2) No action shall be commenced under this section after the expiration of two years from, Limitation period

(a) the receipt of the documents by the franchisee; or

(b) the date of the agreement referred to in subsection (1),

whichever is the later.

(3) Subsection (1) does not apply to an untrue statement of a material fact or an omission to state a material fact, Exception

(a) if the untruth of the statement or the fact of the omission was unknown to the franchisor and, in the exercise of reasonable diligence, could not have been known to that person;

(b) if the statement or omission was disclosed in an amendment to the prospectus filed in compliance with this Act and delivered to the purchaser before the agreement to purchase the franchise became binding; or

(c) if the franchisee knew of the untruth of the omission at the time he purchased the franchise.

(4) The cause of action conferred by this section is in addition to and without derogation from any other right the franchisee may have at law. Other rights preserved

(5) Every prospectus shall contain a statement of the rights given to a franchisee by this section. Contents of prospectus

22.—(1) Where a receipt for a prospectus has been issued, notwithstanding that the receipt is thereafter revoked, every purchaser of the franchise to which the prospectus relates shall be deemed to have relied on the statements made in the prospectus whether the purchaser has received the prospectus or not, and, if a material false statement is contained in the prospectus, every person who, at the time of the issue of a receipt for the prospectus, was a director of the franchisor or a person who signed the certificate required by section 6 is liable to pay compensation to all persons who have purchased the franchise for any loss or damage those persons have sustained as a result of the purchase unless it is proved, Reliance on prospectus

- (a) that the prospectus was filed with the Commission without the knowledge or consent of the director or person signing, and that, on becoming aware of its filing with the Commission, he forthwith gave reasonable public notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the franchise by the purchaser, on becoming aware of any false statement therein, the director or person signing withdrew his consent thereto and gave reasonable public notice of the withdrawal and of the reason for it;
- (c) that, with respect to every false statement, the director or person signing had reasonable grounds to believe and did believe that the statement was true;
- (d) that the director or person signing had no reasonable grounds to believe that an expert who made a statement in a prospectus or whose report or valuation was produced or fairly summarized in it was not competent to make the statement, valuation or report; or
- (e) that, with respect to every false statement purporting to be a statement made by an official person or contained in what purported to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document.

Joint and
several
liability

(2) A person's liability under subsection(1) as a director or as a signatory of the certificate is joint and several with all other such persons and, where the franchisor is a company, with the company.

Immunity of
Commission
and officers

23.—(1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or the regulations, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Immunity
re intended
compliance

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations.

(3) Subsection (1) does not, by reason of subsections 5 (2) and (3) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

Liability
of Crown
R.S.O. 1980,
c. 393

MINIMUM STANDARDS OF FAIRNESS

24. The relationship between a franchisor and franchisee is one of mutual fiduciary obligation in all matters that relate to the franchise.

Fiduciary
relationship

25. Where a franchisee is required or permitted by the franchise agreement to contribute to the cost of advertising arranged by another person, the person to whom the contribution is made shall furnish the franchisee with a true and complete accounting of the disbursement of the funds within a reasonable time after the contribution is made.

Payments
for
advertising

26.—(1) A franchisee may apply to the Commission before or after the termination of a franchise agreement for a hearing to determine the respective rights of the franchisor and franchisee under the franchise agreement and this Act.

Hearing by
Commission

(2) In a hearing held under subsection (1), the burden of proof that,

Burden
of proof

(a) the franchise agreement is fair; and

(b) the conduct of the franchisor is fair in the circumstances,

lies upon the franchisor.

(3) Upon a hearing held under subsection (1), the Commission may amend the franchise agreement, excuse the franchisee from performance of any contractual obligation or prohibit the franchisor from exercising any contractual right, as the Commission considers fair, and in particular the Commission may,

Powers of
Commission

(a) prohibit the termination of the franchise agreement;

(b) order that an assignment, sale or renewal of the franchise agreement be permitted;

(c) prohibit the forfeiture of deposits or fees or direct their repayment to the franchisee;

(d) excuse the franchisee from an obligation to purchase goods or services necessary to the operation of the franchise from a particular source; and

(e) prohibit the franchisor from preventing or restricting collective bargaining practices among franchisees,

on such terms and conditions as the Commission may in its discretion impose.

Temporary
order
without
hearing

(4) In an urgent case, the Commission may make a temporary order under subsection (3) without a hearing, but the order shall expire fifteen days after the date of its making, unless the hearing is commenced, in which case the Commission may extend the order until the hearing is concluded.

Retroactive
application

(5) This section applies to a franchise agreement entered into before the coming into force of this Act.

INVESTIGATION AND ACTION BY THE COMMISSION

Examination
of financial
affairs

27.—(1) The Commission or a person whom it designates in writing as its representative may at any time make an examination of the financial affairs of a franchisor and prepare a balance sheet as of the date of the examination and any other statements and reports required by the Commission.

Access to
records

(2) The Commission or a person making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the franchisor and no person shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

Fees

(3) The Commission may charge the fees prescribed for an examination made under this section.

Experts

28.—(1) The Commission may appoint one or more experts to assist the Commission in any manner it considers expedient.

Idem

(2) The Commission may submit an agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and compel them to produce documents, records and things as is vested in the Commission in conducting an investigation, and subsections 29 (3) and (4) apply with all necessary modifications.

(3) An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council determines. Expenses

29.—(1) Where on a statement made under oath it appears probable to the Commission that any person has, Investigations

(a) contravened this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in franchises, R.S.C. 1970,
c. C-33

the Commission may by order appoint one or more persons to make any investigation it considers expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

(2) The Commission may, on its own motion by order, appoint one or more persons to make any investigation it considers expedient for the due administration of this Act or into any matter relating to trading in franchises, and in the order shall determine and prescribe the scope of the investigation. Idem

(3) For the purposes of an investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine, Scope of investigation

(a) the affairs of the person in respect of whom the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with that person and any property, assets or things owned, acquired or alienated in whole or in part by that person or by any person acting on behalf of or as agent for that person; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person and the relationship that may at any time exist or have existed between that person and any other person by reason of a sale or an agreement of purchase and sale, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money or other

property, interlocking directorates, common control, undue influence or control or any other relationship.

Powers of investigator

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce the documents, records and things that are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court, and no provision of the *Evidence Act* exempts any bank or any officer or employee of a bank from the operation of this section.

R.S.O. 1980,
c. 145

Right to counsel

(5) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of documents, etc.

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated.

Copying

(7) Where any documents, records, securities or other property are seized under subsection (6), the documents, records, securities or other property must be made available for inspection and copying by the person from whom they were seized at a mutually convenient time and place.

Appointment of expert

(8) When an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person whose affairs are being investigated.

Report

(9) A person appointed under subsection (1), (2) or (8) shall report the result of his investigation or examination to the Commission.

Report to Minister

30. Where on the report of an investigation made under section 29 it appears to the Commission that any person may have,

(a) contravened this Act or the regulations; or

R.S.C. 1970,
c. C-33

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to franchises,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of

evidence and any material in the possession of the Commission relating thereto, to the Minister and to the Attorney General.

31. The Minister may by order appoint one or more persons to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in franchises, in which case the person or persons so appointed have the same authority, powers, rights and privileges for the purposes of the investigation as a person appointed under section 29. Minister's investigation

32. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 29 or 31. Confidentiality

33. Where an investigation has been made under section 29, the Commission may, and, when an investigation has been made under section 31, the person making the investigation shall, report the result of the investigation, including the evidence, findings, comments and recommendations, to the Minister and to the Attorney General and the Minister, with the consent of the Attorney General, may publish the report in whole or in part in any manner he considers proper. Report to Minister

34.—(1) Where, Order freezing funds

- (a) the Commission is about to order an investigation under section 29 or 31;
- (b) an investigation under section 29 or 31 is proceeding or has been completed;
- (c) the Commission is about to make or has made a direction, decision, order or ruling suspending, cancelling or affecting the right of a person to trade in a franchise;
- (d) criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a person, that in the opinion of the Commission are connected with or arise out of a franchise or a trade in a franchise or out of any business conducted by that person,

the Commission may, in writing or by telegram,

- (e) direct any person having on deposit or under control or for safekeeping any funds or securities of the person referred to in clause (a), (b), (c) or (d) to hold the funds or securities; or

- (f) direct the person referred to in clause (a), (b), (c) or (d) to refrain from withdrawing any of the funds or securities from any other person having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control,

R.S.C. 1970,
cc. B-3, W-10
R.S.O. 1980,
cc. 223, 54

in trust for an interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Business Corporations Act* or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, and in the case of a bank, loan or trust company the direction applies only to the offices, branches or agencies named in the direction.

Application
for directions

(2) A person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any funds or franchise or in the case of a claim being made to the funds or franchise by a person not named in the direction, may apply to the Supreme Court which may direct the disposition of the funds, may declare the direction's application to any franchise and may make any order as to costs that to it seems just.

Notice
affecting
land

(3) In any of the circumstances mentioned in clause (1) (a), (b), (c) or (d), the Commission may in writing or by telegram notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered or recorded against the land mentioned in it and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, but the Commission may in writing revoke or modify the notice.

Application
for appoint-
ment of
receiver, etc.

35.—(1) Where,

- (a) the Commission is about to order an investigation under section 29;
- (b) an investigation under section 29 or 31 is proceeding or has been completed;
- (c) the Commission is about to make or has made a direction, decision, order or ruling suspending, cancelling or affecting the right of any person to trade in a franchise; or
- (d) criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a person that in the opinion of the Commission are connected with or arise

out of any franchise or any trade in a franchise, or out of any business conducted by that person,

the Commission may apply to the Supreme Court for the appointment of a receiver or a receiver and manager or a trustee of the property of that person.

(2) On an application made under subsection (1), the Court ^{Idem} may, if it is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person is in the best interests of the creditors of that person or of persons whose property is in the possession or under the control of that person, appoint a receiver or a receiver and manager or a trustee of the property of that person.

(3) On an *ex parte* application made by the Commission under ^{Ex parte order} this section, the Court may make an order under subsection (2) appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days.

(4) A receiver or a receiver and manager or a trustee of the property of a person appointed under this section is the receiver or the receiver and manager or the trustee of all the property belonging to the person or held by the person on behalf of or in trust for any other person, and the receiver or the receiver and manager or the trustee shall have authority, if so directed by the Court, to wind up or manage the business and affairs of the person and all powers necessary or incidental thereto. ^{Powers of receiver, etc.}

APPEALS

36.—(1) Any person directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, require a hearing and review thereof by the Commission. ^{Review of Director's decision}

(2) A decision under review takes effect immediately despite a ^{Stay} request for a hearing under subsection (1), but the Commission may grant a stay until disposition of the hearing and review.

(3) Upon a hearing and review, the Commission may by order ^{Power on review} confirm the decision under review or make such other decision as the Commission considers proper.

37.—(1) Any person directly affected by a decision of the Commission may appeal to the Divisional Court. ^{Appeal}

Stay

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

Commission
entitled
to appear

(3) The Commission is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers
of court
on appeal

(4) Where an appeal is taken under this section, the Court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the Court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

Further
decisions

(5) Despite an order of the Court on an appeal, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section.

ADMINISTRATION

Statements
receivable
in evidence

38. A statement as to,

- (a) the issue of or refusal to issue a receipt for a prospectus;
- (b) the filing or non-filing of any document; or
- (c) any related matter,

purporting to be certified by the Commission or by a member of it or by the Director may be admitted in evidence in any proceeding without proof of the office or signature of the persons certifying.

Execution
of warrant
issued in
another
province

39.—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of a person on a charge of contravening any statute of the province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be may, on satisfactory proof of the handwriting of the provincial judge, magistrate or justice who issued the warrant, make an endorsement on the warrant in the form prescribed by the regulations.

Idem

(2) A warrant endorsed under subsection (1) is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables

within the territorial jurisdiction of the provincial judge or justice who endorsed the warrant to execute it and to take the person arrested under it either out of or anywhere in Ontario and to re-arrest the person anywhere in Ontario.

(3) Any constable of Ontario or of another province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province under a warrant endorsed under subsection (1) is entitled to hold, take and re-arrest the accused anywhere in Ontario under the warrant without proof of the warrant or of its endorsement. Prisoner
in transit

40.—(1) Where it appears to the Commission that a person has failed to comply with or is contravening any provision of this Act or the regulations, despite the imposition of any penalty in respect of the non-compliance or contravention and in addition to any other rights it may have, the Commission may apply to a judge of the High Court by way of originating notice for an order directing that person to comply with the provision or for an order restraining that person from contravening the provision, and on the application the judge may make that order or any other order that he thinks fit. Order for
compliance

(2) The originating notice shall be served at least two clear days before the day named in the notice for hearing the application. Notice

(3) An appeal lies to the Divisional Court from an order made under subsection (1). Appeal

41.—(1) Any bond mentioned in section 8 or 10 is forfeited and the amount of it becomes due and owing by the person bound by it as a debt due to the Crown in right of Ontario, Forfeiture
of bond

(a) where a person or an officer or partner of a company in respect of whose conduct the bond is given has been convicted of,

(i) an offence under this Act or the regulations,

(ii) an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the *Criminal Code* (Canada), or

R.S.C. 1970,
c. C-33

(iii) an offence in connection with a transaction relating to securities under the *Criminal Code* (Canada);

(b) where judgment based on a finding of fraud has been given against a franchisor or an officer or partner of a

franchisor company in respect of whose conduct the bond is conditioned; or

- (c) where proceedings by or in respect of a franchisor or an officer or partner of a franchisor company in respect of whose conduct the bond is given have been taken under the *Bankruptcy Act* (Canada) or by way of winding up and a receiving order under the *Bankruptcy Act* (Canada) or a winding-up order has been made,

R.S.C. 1970,
c. B-3

and the conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

Cancellation
of bond

- (2) A bond may be cancelled by any person bound under it by giving to the Director at least three months notice in writing of intention to cancel and, subject to subsection (3), it shall be deemed to be cancelled on the date stated in the notice.

Bond to
continue
in force

- (3) For the purposes of every act and omission occurring while a person in respect of whose conduct a bond has been given is entitled to trade in a franchise or during the period prior to cancellation of a bond under subsection (2), the bond continues in force and the collateral security, if any, shall remain on deposit for a period of two years after the lapse or cancellation of the right to trade in a franchise to which it relates, or the cancellation of the bond, whichever occurs first.

Sale of
collateral
security

- (4) Where a bond secured by the deposit of collateral security with the Treasurer of Ontario is forfeited under subsection (1), the Lieutenant Governor in Council may direct the Treasurer to sell the collateral security at the current market price.

Proceedings
where Crown
is creditor

R.S.C. 1970,
cc. B-3,
W-10
R.S.O. 1980,
cc. 223, 54

- (5) Where Her Majesty becomes a creditor of any person in respect of a debt due to the Crown arising from the provisions of subsection (1), the Commission may take any proceedings it considers fit under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Business Corporations Act* or the *Winding-up Act* (Canada) for the appointment of an interim receiver, custodian, trustee, receiver or liquidator.

Payment
to judgment
creditor, etc.

- (6) The Lieutenant Governor in Council may direct the Treasurer of Ontario,

- (a) to assign a bond forfeited under subsection (1) and transfer the collateral security, if any;
- (b) to pay over any money recovered under such a bond; or
- (c) to pay over any money realized from the sale of the collateral security under subsection (4),

to any person, or to the clerk of the Supreme Court in trust for persons who may become judgment creditors of the person bonded or to any trustee, custodian, interim receiver, receiver or liquidator of the person bonded.

(7) Where, Refund of
balance

(a) a bond has been forfeited under subsection (1) by reason of a conviction or judgment under clause (1) (a) or (b); and

(b) the Commission has not,

(i) within two years of the conviction or judgment having become final, or

(ii) within two years of the franchisor in respect of whom the bond was furnished having ceased to carry on business as such,

whichever occurs first, received notice in writing of any claim against the proceeds of the bond or of such portion of the bond as remains in the possession of the Treasurer of Ontario,

the Lieutenant Governor in Council may direct the Treasurer to pay the proceeds or portion of them to the person or to any person who on forfeiture of the bond made any payments under it, after first deducting the amount of any expenses that have been incurred in connection with any investigation or other matter relating to the bonded person.

42. This Act applies despite any agreement or waiver to the contrary. Application

43. The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing the form and content of prospectuses and renewal statements;

(b) governing the books, records and accounts to be kept under section 17;

(c) governing the furnishing of information to the public or to the Commission by a franchisor in connection with franchises or trades in them;

(d) governing the keeping of accounts and records, the preparation and filing of financial statements of franchisors and audit requirements with respect thereto;

- (e) prescribing the fees payable to the Commission, including fees for filing, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
- (f) prescribing the form, content and other particulars of documents, reports, statements, agreements and other information required to be filed, furnished or delivered under this Act and the regulations;
- (g) prescribing the practice and procedure of investigations under sections 29 and 31;
- (h) prescribing forms for use under this Act and the regulations; and
- (i) prohibiting or otherwise regulating the distribution of written or printed material by a person in respect of a franchise whether in the course of trading or otherwise.

Commence-
ment

44. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

45. The short title of this Act is the *Franchises Act, 1982*.

An Act to regulate Trading in Franchises

1st Reading

April 23rd, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Education Act

MR. DI SANTO

EXPLANATORY NOTE

The purpose of the Bill is to provide for heritage language instruction in Ontario. The Bill sets forth a procedure for the establishment of heritage language programs in order that a heritage language may be taught as a subject of instruction or as a language of instruction. When a school board decides to institute a heritage language program, the Bill requires that a local heritage language advisory committee be established to provide continuing advice to the board concerning the nature and content of the heritage language program. In the case of a dispute between the board and the advisory committee, the Bill provides that the matter in dispute may be referred to the Minister for determination.

BILL 89

1982

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 235 (1) (*f*) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 235 (1) (*f*),
re-enacted

- (*f*) in instruction and in all communications with pupils in regard to discipline and the management of the school, to use English or another language that will be understood by the pupil, except in respect of a language that is being taught as one of the subjects in the course of study.

language
of
instruction

2. The said Act is amended by adding thereto the following Part:

Part XI-A
(ss. 277a-
277f),
enacted

PART XI-A

HERITAGE LANGUAGE INSTRUCTION

277a. In this Part,

Interpre-
tation

- (a) "board" means a board of education, public school board, secondary school board or separate school board;
- (b) "board area" means the area in which a board has jurisdiction;
- (c) "heritage language" means a language other than English or French;
- (d) "student" means any person who has a right to attend a school in a board area in which the person is qualified to be a resident pupil.

Purpose

277b. The purpose of this Part is,

- (a) to provide students with the opportunity to study a heritage language as a subject of instruction in order to preserve or establish links with a heritage language community; and
- (b) to provide students with instruction in a heritage language as a means of transition to learning and working in the English or French language.

Heritage
language
classes

277c.—(1) A board may establish and maintain classes for the purpose of providing a heritage language as a subject of instruction or as a language of instruction for the purpose of transition to English or French.

Heritage
language
as a
subject of
instruction

(2) Where, after the first school day in September and on or before the first day of April next following, written evidence is presented to a board that a number of students resident in the board area and directly related to a heritage language community has elected to be taught the heritage language as a subject of instruction, the board shall forthwith determine whether students can be assembled for this purpose in one or more classes of twenty or more and, where the board determines that such students can be so assembled, it shall provide the language as a subject of instruction in such classes or groups.

When
classes
to be held

(3) The board shall provide the heritage language as a curriculum subject for academic credit during the regular school day where the board determines that one or more classes or groups of twenty or more students can be assembled for the purpose and the board may establish such other classes at such times and locations as the board considers necessary to meet the needs of the heritage language community.

Admission
to classes

(4) Upon determining that a heritage language shall be taught as a subject of instruction, a board may permit students who have no direct relationship to the heritage language community to receive instruction in the language.

French,
English
as
heritage
languages

(5) For the purposes of this section, French shall be deemed to be a heritage language except where the number of English-speaking students of a board is fewer than the number of students of the board for whom French is the language of instruction, in which case English shall be deemed to be a heritage language.

Transition
classes

277d.—(1) Where, after the first school day in September and on or before the first day of April next following, written evidence is presented to a board that a number of students resident

in the board area whose mother tongue is a heritage language has elected to be taught in the heritage language as a language of instruction for the purpose of transition to English or French, the board shall forthwith determine whether students can be assembled for this purpose in one or more classes or groups of twenty or more and, where the board determines that such students can be so assembled, it shall provide the language as a language of instruction in such classes or groups.

(2) English or French shall be a subject of instruction in all grades in which a heritage language is a language of instruction. Instruction in English or French

277e.—(1) Where a board establishes, extends or decides to establish or extend a class, group or program in which a heritage language is a subject of instruction or a language of instruction, the board shall, within two months of the establishment, extension or decision to establish or extend by resolution, establish an advisory committee and provide for the holding of election of members thereof. Advisory committee

(2) No person is eligible to be a member of an advisory committee unless the heritage language in respect of which the committee is established is the mother tongue of that person. Membership on advisory committee

(3) The advisory committee is responsible for developing proposals designed to meet the educational and cultural needs of students and community members who speak or wish to study the heritage language and for such purpose may make recommendations in respect of, Recommendations

- (a) the establishment, operation and management of heritage language instructional programs;
- (b) the use of the heritage language and of the English and French languages in heritage language instructional programs;
- (c) the recruitment and appointment of the required teaching, supervisory and administrative personnel;
- (d) the establishment of the course of study and the use of textbooks and other instructional material;
- (e) the establishment of attendance areas for heritage language instructional programs;
- (f) the provision of transportation for pupils;
- (g) the entering into agreements with other boards in respect of the provision of instruction in the heritage language and supervising and consultative services;

- (h) the development and establishment of adult education programs;
- (i) the use of any facility and means necessary to meet the educational and cultural needs of the heritage language community;
- (j) the provision of summer school programs; and
- (k) any other matter pertaining to heritage language education.

Committee
report
to board

(4) The committee shall report at each regular meeting of the board.

Board to
seek
advice of
committee

(5) The board shall seek the advice of the committee on all matters affecting the establishment, program, administration and termination of heritage language classes, groups or programs before any final decision regarding such matters is taken by the board.

Consider-
ation of
recommen-
dations
by board

(6) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal.

Referral to
Minister

277f.—(1) Upon receipt of a refusal and the reasons therefor under subsection (5), the committee may, by motion, refer the matter to the Minister, in which case it shall send to the Minister and to the board copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal.

Deferral
of action
by board

(2) When a matter is referred to the Minister, the board concerned shall defer action thereon until the matter has been resolved.

Written
reasons

(3) The Minister shall provide written reasons to the committee and the board in respect of a decision made on a matter referred to the Minister by the committee.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Education Amendment Act, 1982*.

An Act to amend the Education Act

1st Reading

April 27th, 1982

2nd Reading

3rd Reading

MR. DI SANTO

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to prevent unjust enrichment through the Financial
Exploitation of Crime**

MR. RENWICK

EXPLANATORY NOTE

The Bill makes moneys earned by accused criminals from the sale of their memoirs payable to the Criminal Injuries Compensation Board, which uses the funds received in each case to satisfy judgments obtained by victims of the crime.

BILL 90

1982

An Act to prevent unjust enrichment through the Financial Exploitation of Crime

HER MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Criminal Injuries Compensation Board established under the *Compensation for Victims of Crime Act*; R.S.O. 1980,
c. 82
- (b) "broadcast" means information transmitted by cables, wires, fibre-optic linkages, laser beams or any form of wireless radioelectric communication employing Hert-
zian waves;
- (c) "person accused or convicted of a crime" includes,
 - (i) a person who has been charged with a crime,
 - (ii) a person who has been convicted of a crime, and
 - (iii) a person who has admitted the commission of a crime for which the person has not been prosecuted;
- (d) "victim" means a person who suffers injury, damage or pecuniary loss as a direct result of a crime.

2.—(1) Every person who makes an agreement with a person accused or convicted of a crime, or with the person's agent or assignee, with respect to a book, magazine or newspaper article, broadcast, tape recording, phonograph recording, video recording, live presentation or other representation based upon or concerning the crime shall,

Payments
to Board

- (a) provide the Board with a copy of the contract; and

- (b) pay to the Board any moneys which would, under the contract, be payable to the person accused or convicted of the crime, his agent or nominee.

List to be public

(2) The Board shall maintain a complete list of all persons in respect of whom it receives moneys under section 2 and shall make the list available to the public upon request.

Board to hold funds

3.—(1) The Board shall hold all moneys received under section 2 in a special account, which may be an interest-bearing account, shall keep full records as to their source and disbursement and shall deal with the moneys in accordance with this Act.

Interest

(2) Interest earned on moneys received under section 2 forms part of the moneys to be dealt with by the Board in accordance with this Act.

Notice to victims

4.—(1) Where the Board first receives moneys under section 2 in respect of a particular crime, it shall publish, in a newspaper circulated in the community where the crime was committed or alleged to have been committed, at least once every week for four weeks, a notice advising victims of the crime that it holds the moneys and of their rights under this Act.

Idem

(2) The Board may give such further notice to victims as it considers advisable.

Victim may sue
R.S.O. 1980,
cc. 152, 240

5.—(1) Despite subsection 60 (4) of the *Family Law Reform Act* and section 45 of the *Limitations Act*, a victim may bring an action for the recovery of damages against the person accused or convicted of the crime within five years after the date on which the Board first received moneys under section 2 in respect of the crime.

Notice to Board

(2) A victim who commences an action for damages against the person accused or convicted of the crime shall provide the Board with a copy of the statement of claim.

Payment to victim

6.—(1) Where a victim obtains judgment in an action for damages commenced against the person accused or convicted of the crime, the Board, after a day five years and six months after the day the Board first received moneys under this Act, shall pay the amount of the judgment and costs to the victim from the funds it holds under this Act.

Action for damages

(2) Where, on the day named in subsection (1), the Board has notice that a victim has commenced an action for damages against the person accused or convicted of the crime and that the action has not been finally disposed of, the Board shall not make a payment under subsection (1) until the action has been finally disposed of.

(3) Where the aggregate amount of judgments and costs in respect of a particular crime exceeds the moneys received by the Board in respect of the crime, the Board shall distribute the moneys to the victims on a *pro rata* basis. When funds insufficient

7.—(1) Where, on a day five years and six months after the day the Board first received moneys under this Act in respect of a particular crime, the board has not been notified of an action commenced against the person accused or convicted of the crime during the five-year period described in subsection 5 (1), the Board shall release the moneys to the person accused or convicted of the crime. Release of funds where no victim sues

(2) Where, after the Board has paid the full amounts of all judgments and costs payable to victims of a particular crime in accordance with this Act, the Board retains a balance of moneys received in respect of the crime, the Board shall pay the balance to the person accused or convicted of the crime. Balance after judgments satisfied

8. Every person who contravenes section 2 of this Act is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000. Penalty

9. Nothing in this Act affects the power of the Board to award compensation to a victim under the *Compensation for Victims of Crime Act*. Board's power under R.S.O. 1980, c. 82

10. This Act comes into force on the day it receives Royal Assent. Commence-ment

11. The short title of this Act is the *Profits from Crime Act*, Short title 1982.

An Act to prevent unjust
enrichment through the
Financial Exploitation of Crime

1st Reading

April 27th, 1982

2nd Reading

3rd Reading

MR. RENWICK

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to revise the Municipal Interest and Discount
Rates Act, 1981**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill revises the *Municipal Interest and Discount Rates Act, 1981* which provides municipalities and local boards with a method of imposing higher charges and charging higher interest on overdue payments owed to them and of allowing greater discounts on payments made in advance to them than may be charged or allowed under such Acts as the *Municipal Act*, the *Education Act* or the *Assessment Act*. The Act applies if a municipality or local board is empowered under some other statute to impose charges and charge interest on overdue payments or to allow discounts on payments made in advance.

The principal features of the Bill are as follows:

1. Municipalities and local boards will be authorized to establish the rates of the charges, interest and discounts to be imposed or allowed in respect of taxes or other payments in December of any year if the by-law comes into force at any time between January 1st and March 31st of the next year. At present, the charges, interest and discounts that may be made applicable to any whole year must be fixed in that year.
2. At present, the maximum rate that a municipality or local board may fix in respect of charges, interest or discounts is based on the highest prime rate of a Canadian bank on the day that the municipality or local board passes its by-law fixing the rate. The Bill will allow the municipality to choose the highest prime rate of a Canadian bank either on the day the by-law fixing the rate is passed or on any other day not more than fourteen days prior to the day the by-law is passed.
3. Municipalities and local boards will be allowed not only to lower their interest rates and charges in the year for which they were fixed but to subsequently raise them back up to the rate initially fixed. At present, the rates and charges fixed for any year may only be lowered in that year.

Conversely discount rates may be increased in the year for which they were fixed and then subsequently may be decreased to the rate initially fixed. At present, such rates can only be increased in the year for which they are fixed.

4. Where a municipality, during any year, alters the charges, interest rates or discount rates imposed or allowed on taxes levied for the year, the municipality will be allowed to give notice to the taxpayers by publishing a notice of the new rates in a newspaper having general circulation in the municipality. The new rate will come into effect on the 1st day of the month next following the publishing of the notice or on such other day following the publishing of the notice as the council specifies in the by-law.

At present, notice would have to be given by mailing a printed notice to each taxpayer and the taxpayers would not be subject to the new rates until fourteen days following the mailing of the notices.

5. Municipalities will be allowed to pay interest at such rate as they wish on tax overpayments returned to a taxpayer following the successful conclusion of the taxpayers assessment appeal. At present, municipalities are not allowed to pay interest on such overpayments.

BILL 91

1982

An Act to revise the Municipal Interest and Discount Rates Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "authorized period" means the fourteen-day period immediately preceding the day the relevant by-law is passed;
- (b) "bank" means a bank named in Schedule A to the *Bank Act* (Canada); 1980-81,
c. 40 (Can.)
- (c) "municipality" means a municipality as defined in the *Municipal Affairs Act* and a metropolitan, regional or district municipality or the County of Oxford and any local board thereof; R.S.O. 1980,
c. 303
- (d) "overdue payment" includes any payment to be made to a municipality in respect of,
 - (i) overdue taxes owing to the municipality,
 - (ii) overdue amounts owing to the municipality pursuant to a levy or requisition made by that municipality upon another municipality,
 - (iii) overdue amounts owing to the municipality by another municipality to be applied towards outstanding indebtedness of the municipality, and
 - (iv) overdue amounts owing to the municipality by another municipality for the supply of water or some other service by the first-mentioned municipality to the other municipality;

- (e) "prime rate" means the lowest rate of interest quoted by a bank to its most credit-worthy borrowers for prime business loans;
- (f) "prime rate percentage" means the prime rate of the bank that has the highest prime rate on the relevant day expressed as a percentage only, without the addition of the words "per annum". 1981, c. 26, s. 1, *amended*.

Application

2. Sections 3 and 4 apply only where, under any general or special Act, a municipality is authorized or required to charge interest on overdue payments or to allow a discount for payments made in advance of their due date and where a municipality is authorized or required,

- (a) to charge interest on overdue payments, the municipality may charge interest in accordance with section 3 in lieu of charging interest in accordance with such other Act; and
- (b) to allow a discount for payments made in advance of the due date, the municipality may allow a discount in accordance with section 4 in lieu of allowing a discount in accordance with such other Act,

notwithstanding that the interest charged or the discount allowed is at a rate that is higher or lower than the rate authorized or required to be charged under such other Act. 1981, c. 26, s. 2.

Alternate
interest
rate

3.—(1) A municipality may, by by-law, provide that the interest payable on overdue payments shall be at the rate specified in the by-law, which rate shall not exceed the prime rate of the bank that has the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus 1½ per cent per annum. 1981, c. 26, s. 3 (1), *amended*.

Idem

(2) A by-law passed in any year under subsection (1) in respect of interest payable on overdue payments,

- (a) may not be amended so as to specify an interest rate that is higher than the interest rate that was originally specified in the by-law;
- (b) may provide for interest to be added to overdue payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of interest payable on overdue payments comes into force in the next following year, or

(ii) the 31st day of March in the next following year;
and

(c) may be made applicable to overdue payments or any class or classes thereof, that are overdue on the day this Act comes into force or that thereafter become overdue. 1981, c. 26, s. 3 (2), *amended*.

(3) Notwithstanding clause (2) (b), a by-law may be passed ^{Idem} under subsection (1) in December of any year to provide that it shall come into force on a specified day in the next following year prior to the 31st day of March and that the interest rate specified in the by-law shall be added to overdue payments from the day the by-law comes into force in that year until,

(a) the day in the year next following that year that a by-law in respect of interest payable on overdue payments comes into force; or

(b) the 31st day of March in the year next following that year,

whichever is earlier.

(4) A by-law authorized by subsection (3) shall not specify a ^{Limitation} day that is prior to the 1st day of December for purposes of establishing the maximum interest rate that may be specified in the by-law. *New*.

(5) For the purposes of subsection (1), where a municipality is ^{Monthly interest rate} authorized by any general or special Act to fix a monthly interest rate to be added to overdue payments for each month or fraction of a month during which the payment remains unpaid, the interest rate specified in a by-law passed under subsection (1) shall not exceed one-twelfth of the prime rate percentage on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law plus one-eighth of 1 per cent per month. 1981, c. 26, s. 3 (3), *amended*.

(6) This section does not apply to any penalty for non-pay- ^{Application} ment of taxes imposed under subsection 386 (3) or (4) of the *Municipal Act*. 1981, c. 26, s. 3 (4). ^{R.S.O. 1980, c. 302}

4.—(1) A municipality may, by by-law, provide that the ^{Alternate discount rate} discount rate on payments made to it in advance of their due date shall be at such rate as is specified in the by-law, which rate shall not exceed the prime rate of the bank that has the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the

by-law, plus 1½ per cent per annum. 1981, c. 26, s. 4 (1), *amended*.

Idem

(2) A by-law passed in any year under subsection (1) in respect of discounts allowed on advance payments,

- (a) may not be amended so as to specify a discount rate that is lower than the discount rate that was originally specified in the by-law;
- (b) may provide for discounts to be allowed on advance payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of discount rates comes into force in the next following year, or
 - (ii) the 31st day of March in the next following year; and
- (c) may be made applicable to advance payments or any class or classes thereof, made in respect of payments that become due after the day this Act comes into force whether the advance payment was or is made before or after that day. 1981, c. 26, s. 4 (2), *amended*.

Idem

(3) Notwithstanding clause (2) (b), a by-law may be passed under subsection (1) in December of any year to provide that it shall come into force on a specified day in the next following year prior to the 31st day of March and that the discount rate specified in the by-law shall be allowed from the day the by-law comes into force in that year until,

- (a) the day in the year next following that year that a by-law in respect of discount rates allowable on payments in advance comes into force; or
- (b) the 31st day of March in the year next following that year,

whichever is earlier.

Limitation

(4) A by-law authorized by subsection (3) shall not specify a day that is prior to the 1st day of December for purposes of establishing the maximum discount rate that may be specified in the by-law. *New*.

Application

(5) This section does not apply to discounts or interest allowed for taxes paid in advance under subsection 386 (5) of the *Municipal Act*. 1981, c. 26, s. 4 (3).

5.—(1) In lieu of imposing a percentage charge as a penalty for non-payment of taxes under subsection 386 (3) or (4) of the *Municipal Act* or allowing a discount or interest for advance payment of taxes under subsection 386 (5) of that Act, a municipality may impose penalties and allow discounts or interest in accordance with this section. 1981, c. 26, s. 5 (1).

Application

R.S.O. 1980,
c. 302

(2) A municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding one-twelfth of the prime rate percentage on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus one-eighth of 1 per cent and the by-law shall provide that the percentage charge shall be imposed on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied. 1981, c. 26, s. 5 (2).

Alternate
penalty for
non-payment
of taxes

(3) As an alternative to a by-law passed under subsection (2), the municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or all or any class or instalment thereof not exceeding the prime rate of the bank that has the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus 1½ per cent per annum from the date payment is due until it is made or until the 31st day of December of the year in which the taxes were levied, whichever is earlier. 1981, c. 26, s. 5 (3), *amended*.

Idem

(4) The municipality may, by by-law, authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

Alternate
discount or
interest on
payment in
advance

(a) to allow a discount on any taxes so paid in advance at a rate not exceeding the prime rate of the bank having the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus 1½ per cent per annum and may allow interest at a rate not exceeding the aforementioned maximum rate on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or

(b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding the prime rate of the bank having the highest prime rate on the day the by-law is passed or, alternatively, on such other day within

the authorized period as is specified in the by-law, plus 1½ per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment roll on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made. 1981, c. 26, s. 5 (4), *amended*.

Application

(5) Subject to subsections (6) and (7), a by-law passed under this section applies only to taxes levied in the year in which it was passed. 1981, c. 26, s. 5 (5), *amended*.

By-law
for next
following
year

(6) A by-law may be passed under subsection (2), (3) or (4) in December of any year to provide that it shall come into effect on a specified day in the next following year and that it shall apply to taxes to be levied in the next following year.

Idem

(7) A by-law authorized by subsection (6) shall not specify a day that is prior to the 1st day of December for purposes of establishing the maximum percentage charge or discount or interest rate that may be imposed or allowed by the by-law. *New*.

Amendments
to by-law

(8) A by-law passed,

- (a) under subsection (2) or (3) may not be amended so as to specify a percentage charge that is higher than the percentage charge originally specified in the by-law;
- (b) under clause (4) (a) may not be amended so as to specify a discount rate that is lower than the discount rate originally specified in the by-law; and
- (c) under clause (4) (b) may not be amended so as to specify an interest rate that is lower than the interest rate originally specified in the by-law. 1981, c. 26, s. 5 (7), *amended*.

Publication

(9) Where a by-law passed by a municipality under subsection (2), (3) or (4) is amended so as to change the percentage charge or discount or interest rate set out in the by-law, notice of the new charge or rate shall be given by having it published in a newspaper that in the opinion of the clerk has general circulation in the municipality and notice of the new charge or rate shall not be required to be given in accordance with subsection 386 (6) of the *Municipal Act* and the amending by-law setting out the new percentage charge or discount or interest rate comes into effect on the 1st day of the month next following the month in which notice of the new charge or rate was published, or on such other

day following the day the notice was published as may be specified in the amending by-law.

(10) Notice of a percentage charge or discount or interest rate, Idem whether given under subsection (9) or under subsection 386 (6) of the *Municipal Act*, may be given at any time on or after the day of the passing of the by-law authorizing the percentage charge or discount or interest rate notwithstanding that the by-law provides that it will not come into force until a date subsequent to its passing. *New.* R.S.O. 1980, c. 302

(11) Where in any Act there is a reference to subsection 386 (3), (4) or (5) of the *Municipal Act* and where a by-law has been passed under this section, the reference to the said subsection (3), (4) or (5) shall be deemed to be a reference to subsection (2), (3) or (4), respectively, of this section. 1981, c. 26, s. 5 (8). References in other Acts

6.—(1) A local municipality may pass by-laws to provide for paying to persons to whom overpayments are refunded under subsection 36 (6) of the *Assessment Act*, interest on the overpayments at such rate as the council may determine and different rates may be paid for different successive periods from the day the overpayments were made or such other day as may be set out in the by-law until the day they were refunded or such other day as may be set out in the by-law. Interest on overpayments R.S.O. 1980, c. 31

(2) Any portion of interest paid under subsection (1) that is attributable to a portion of an overpayment levied by the local municipality for some other body shall be charged back to that other body and the remaining portion of the interest shall be charged to the general funds of the local municipality. Charge back

(3) A by-law passed under subsection (1) may be made applicable to overpayments that were made prior to the passing of the by-law. Retrospective effect

(4) A by-law passed under subsection (1) may be made applicable to overpayments made prior to the coming into force of this Act. *New.* Idem

7. The *Municipal Interest and Discount Rates Act, 1981*, being chapter 26, is repealed. Repeal

8. This Act comes into force on the day it receives Royal Assent. Commencement

9. The short title of this Act is the *Municipal Interest and Discount Rates Act, 1982*. Short title

An Act to revise the Municipal
Interest and Discount Rates Act, 1981

1st Reading

April 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 91

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to revise the Municipal Interest and Discount Rates Act, 1981

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 91

1982

An Act to revise the Municipal Interest and Discount Rates Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "authorized period" means the fourteen-day period immediately preceding the day the relevant by-law is passed;
- (b) "bank" means a bank named in Schedule A to the *Bank Act* (Canada); 1980-81,
c. 40 (Can.)
- (c) "municipality" means a municipality as defined in the *Municipal Affairs Act* and a metropolitan, regional or district municipality or the County of Oxford and any local board thereof; R.S.O. 1980,
c. 303
- (d) "overdue payment" includes any payment to be made to a municipality in respect of,
 - (i) overdue taxes owing to the municipality,
 - (ii) overdue amounts owing to the municipality pursuant to a levy or requisition made by that municipality upon another municipality,
 - (iii) overdue amounts owing to the municipality by another municipality to be applied towards outstanding indebtedness of the municipality, and
 - (iv) overdue amounts owing to the municipality by another municipality for the supply of water or some other service by the first-mentioned municipality to the other municipality;

- (e) "prime rate" means the lowest rate of interest quoted by a bank to its most credit-worthy borrowers for prime business loans;
- (f) "prime rate percentage" means the prime rate of the bank that has the highest prime rate on the relevant day expressed as a percentage only, without the addition of the words "per annum". 1981, c. 26, s. 1, *amended*.

Application

2. Sections 3 and 4 apply only where, under any general or special Act, a municipality is authorized or required to charge interest on overdue payments or to allow a discount for payments made in advance of their due date and where a municipality is authorized or required,

- (a) to charge interest on overdue payments, the municipality may charge interest in accordance with section 3 in lieu of charging interest in accordance with such other Act; and
- (b) to allow a discount for payments made in advance of the due date, the municipality may allow a discount in accordance with section 4 in lieu of allowing a discount in accordance with such other Act,

notwithstanding that the interest charged or the discount allowed is at a rate that is higher or lower than the rate authorized or required to be charged under such other Act. 1981, c. 26, s. 2.

Alternate
interest
rate

3.—(1) A municipality may, by by-law, provide that the interest payable on overdue payments shall be at the rate specified in the by-law, which rate shall not exceed the prime rate of the bank that has the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus 1½ per cent per annum. 1981, c. 26, s. 3 (1), *amended*.

Idem

(2) A by-law passed in any year under subsection (1) in respect of interest payable on overdue payments,

- (a) may not be amended so as to specify an interest rate that is higher than the interest rate that was originally specified in the by-law;
- (b) may provide for interest to be added to overdue payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of interest payable on overdue payments comes into force in the next following year, or

(ii) the 31st day of March in the next following year;
and

(c) may be made applicable to overdue payments or any class or classes thereof, that are overdue on the day this Act comes into force or that thereafter become overdue. 1981, c. 26, s. 3 (2), *amended*.

(3) Notwithstanding clause (2) (b), a by-law may be passed ^{Idem} under subsection (1) in December of any year to provide that it shall come into force on a specified day in the next following year prior to the 31st day of March and that the interest rate specified in the by-law shall be added to overdue payments from the day the by-law comes into force in that year until,

(a) the day in the year next following that year that a by-law in respect of interest payable on overdue payments comes into force; or

(b) the 31st day of March in the year next following that year,

whichever is earlier.

(4) A by-law authorized by subsection (3) shall not specify a ^{Limitation} day that is prior to the 1st day of December for purposes of establishing the maximum interest rate that may be specified in the by-law. *New*.

(5) For the purposes of subsection (1), where a municipality is ^{Monthly interest rate} authorized by any general or special Act to fix a monthly interest rate to be added to overdue payments for each month or fraction of a month during which the payment remains unpaid, the interest rate specified in a by-law passed under subsection (1) shall not exceed one-twelfth of the prime rate percentage on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law plus one-eighth of 1 per cent per month. 1981, c. 26, s. 3 (3), *amended*.

(6) This section does not apply to any penalty for non-pay- ^{Application} ment of taxes imposed under subsection 386 (3) or (4) of the *Municipal Act*. 1981, c. 26, s. 3 (4). R.S.O. 1980,
c. 302

4.—(1) A municipality may, by by-law, provide that the dis- ^{Alternate discount rate} count rate on payments made to it in advance of their due date shall be at such rate as is specified in the by-law, which rate shall not exceed the prime rate of the bank that has the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the

by-law, plus 1½ per cent per annum. 1981, c. 26, s. 4 (1), *amended*.

Idem

(2) A by-law passed in any year under subsection (1) in respect of discounts allowed on advance payments,

- (a) may not be amended so as to specify a discount rate that is lower than the discount rate that was originally specified in the by-law;
- (b) may provide for discounts to be allowed on advance payments at the rate set out in the by-law only until the earlier of,
 - (i) the day a by-law in respect of discount rates comes into force in the next following year, or
 - (ii) the 31st day of March in the next following year; and
- (c) may be made applicable to advance payments or any class or classes thereof, made in respect of payments that become due after the day this Act comes into force whether the advance payment was or is made before or after that day. 1981, c. 26, s. 4 (2), *amended*.

Idem

(3) Notwithstanding clause (2) (b), a by-law may be passed under subsection (1) in December of any year to provide that it shall come into force on a specified day in the next following year prior to the 31st day of March and that the discount rate specified in the by-law shall be allowed from the day the by-law comes into force in that year until,

- (a) the day in the year next following that year that a by-law in respect of discount rates allowable on payments in advance comes into force; or
- (b) the 31st day of March in the year next following that year,

whichever is earlier.

Limitation

(4) A by-law authorized by subsection (3) shall not specify a day that is prior to the 1st day of December for purposes of establishing the maximum discount rate that may be specified in the by-law. *New*.

Application

(5) This section does not apply to discounts or interest allowed for taxes paid in advance under subsection 386 (5) of the *Municipal Act*. 1981, c. 26, s. 4 (3).

5.—(1) In lieu of imposing a percentage charge as a penalty for non-payment of taxes under subsection 386 (3) or (4) of the *Municipal Act* or allowing a discount or interest for advance payment of taxes under subsection 386 (5) of that Act, a municipality may impose penalties and allow discounts or interest in accordance with this section. 1981, c. 26, s. 5 (1).

Application

R.S.O. 1980,
c. 302

(2) A municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding one-twelfth of the prime rate percentage on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus one-eighth of 1 per cent and the by-law shall provide that the percentage charge shall be imposed on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the taxes are levied. 1981, c. 26, s. 5 (2).

Alternate
penalty for
non-payment
of taxes

(3) As an alternative to a by-law passed under subsection (2), the municipality may, by by-law, impose a percentage charge as a penalty for non-payment of taxes or all or any class or instalment thereof not exceeding the prime rate of the bank that has the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus 1½ per cent per annum from the date payment is due until it is made or until the 31st day of December of the year in which the taxes were levied, whichever is earlier. 1981, c. 26, s. 5 (3), *amended*.

Idem

(4) The municipality may, by by-law, authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and,

Alternate
discount or
interest on
payment in
advance

- (a) to allow a discount on any taxes so paid in advance at a rate not exceeding the prime rate of the bank having the highest prime rate on the day the by-law is passed or, alternatively, on such other day within the authorized period as is specified in the by-law, plus 1½ per cent per annum and may allow interest at a rate not exceeding the aforementioned maximum rate on account of taxes so paid in advance for any portion of the period for which no discount is allowed; or
- (b) to allow interest on taxes paid in advance of the day fixed by by-law for the payment of any instalment of such taxes at a rate not exceeding the prime rate of the bank having the highest prime rate on the day the by-law is passed or, alternatively, on such other day within

the authorized period as is specified in the by-law, plus
1½ per cent per annum,

notwithstanding that the taxes for such year have not been levied or that the assessment roll on which such taxes are to be fixed and levied has not been revised and certified by the Assessment Review Court when any such advance payment is made. 1981, c. 26, s. 5 (4), *amended*.

Application (5) Subject to subsections (6) and (7), a by-law passed under this section applies only to taxes levied in the year in which it was passed. 1981, c. 26, s. 5 (5), *amended*.

By-law for next following year (6) A by-law may be passed under subsection (2), (3) or (4) in December of any year to provide that it shall come into effect on a specified day in the next following year and that it shall apply to taxes to be levied in the next following year.

Idem (7) A by-law authorized by subsection (6) shall not specify a day that is prior to the 1st day of December for purposes of establishing the maximum percentage charge or discount or interest rate that may be imposed or allowed by the by-law. *New*.

Amendments to by-law (8) A by-law passed,
(a) under subsection (2) or (3) may not be amended so as to specify a percentage charge that is higher than the percentage charge originally specified in the by-law;
(b) under clause (4) (a) may not be amended so as to specify a discount rate that is lower than the discount rate originally specified in the by-law; and
(c) under clause (4) (b) may not be amended so as to specify an interest rate that is lower than the interest rate originally specified in the by-law. 1981, c. 26, s. 5 (7), *amended*.

Publication (9) Where a by-law passed by a municipality under subsection (2), (3) or (4) is amended so as to change the percentage charge or discount or interest rate set out in the by-law, notice of the new charge or rate shall be given by having it published in a newspaper that in the opinion of the clerk has general circulation in the municipality and notice of the new charge or rate shall not be required to be given in accordance with subsection 386 (6) of the *Municipal Act* and the amending by-law setting out the new percentage charge or discount or interest rate comes into effect on the 1st day of the month next following the month in which notice of the new charge or rate was published, or on such other

day following the day the notice was published as may be specified in the amending by-law.

(10) Notice of a percentage charge or discount or interest rate, whether given under subsection (9) or under subsection 386 (6) of the *Municipal Act*, may be given at any time on or after the day of the passing of the by-law authorizing the percentage charge or discount or interest rate notwithstanding that the by-law provides that it will not come into force until a date subsequent to its passing. *New.*

Idem
R.S.O. 1980,
c. 302

(11) Where in any Act there is a reference to subsection 386 (3), (4) or (5) of the *Municipal Act* and where a by-law has been passed under this section, the reference to the said subsection (3), (4) or (5) shall be deemed to be a reference to subsection (2), (3) or (4), respectively, of this section. 1981, c. 26, s. 5 (8).

References
in other
Acts

6.—(1) A local municipality may pass by-laws to provide for paying to persons to whom overpayments are refunded under subsection 36 (6) of the *Assessment Act*, interest on the overpayments at such rate as the council may determine and different rates may be paid for different successive periods from the day the overpayments were made or such other day as may be set out in the by-law until the day they were refunded or such other day as may be set out in the by-law.

Interest on
overpayments
R.S.O. 1980,
c. 31

(2) Any portion of interest paid under subsection (1) that is attributable to a portion of an overpayment levied by the local municipality for some other body shall be charged back to that other body and the remaining portion of the interest shall be charged to the general funds of the local municipality.

Charge back

(3) A by-law passed under subsection (1) may be made applicable to overpayments that were made prior to the passing of the by-law.

Retrospective
effect

(4) A by-law passed under subsection (1) may be made applicable to overpayments made prior to the coming into force of this Act. *New.*

Idem

7. The *Municipal Interest and Discount Rates Act, 1981*, being chapter 26, is repealed.

Repeal

8. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

9. The short title of this Act is the *Municipal Interest and Discount Rates Act, 1982*.

Short title

An Act to revise the Municipal
Interest and Discount Rates Act, 1981

1st Reading

April 29th, 1982

2nd Reading

October 21st, 1982

3rd Reading

November 2nd, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend
The District of Parry Sound Local Government Act, 1979**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

SECTION 1. For the purposes of the election to be held in 1982 and for elections thereafter, the Township of The Archipelago is divided into the six wards set out in subsection (1) of the new section 12*a* of the Act.

Subsection (2) provides that the council of the Township, commencing December 1st, 1982, shall be composed of a reeve elected by general vote and ten other members elected by wards.

Subsection (3) empowers the Municipal Board, on application by the Township or on petition of the electors, to redivide or dissolve the wards and to vary the composition of the council.

Subsection (4) authorizes the Minister to require a stay of any proceeding under subsection (3) where an inquiry into the organization and operation of the Township is underway.

The proposed new section 12*b* of the Act permits the establishment of polling places outside the Township either in an adjoining municipality or in the Town of Parry Sound.

The proposed new section 12*c* of the Act postpones, for the year 1982, from the 1st day of April to the 1st day of July, the time within which the clerk is to divide the Township into polling subdivisions and inform the assessment commissioner.

BILL 92

1982

An Act to amend The District of Parry Sound Local Government Act, 1979

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The District of Parry Sound Local Government Act, 1979*, being chapter 61, is amended by adding thereto the following sections: ss. 12a, 12b,
12c,
enacted

12a.—(1) For the regular election to be held in 1982 and for all elections thereafter, the Township of The Archipelago, incorporated by Minister's Order under section 12, is divided into the following wards: Division of
Township
into Wards

WARD 1—POINTE AU BARIL STATION—which shall comprise that part of the former Township of Georgian Bay North Archipelago commencing at the intersection of the northerly boundary of the Township of Georgian Bay North Archipelago and the centre line of the road allowance between lots 40 and 41 in Concession XIV of the geographic Township of Harrison;

Thence southerly along the centre line of the said road allowance to the southerly limit of Concession VI;

Thence easterly along that southerly limit to the centre line of the road allowance between lots 35 and 36 in the said Township;

Thence southerly along the centre line of the said road allowance to Georgian Bay;

Thence southeasterly following the middle of the waters east of Barclay Island and north of Ozone Island, Oliver Island and Hearts Content to the centre line of the road allowance between concessions II and III of the Township of Harrison;

Thence easterly along the centre line of the said road allowance to the centre line of the Canadian Pacific Railway's right of way;

Thence southerly along that centre line of Railway to the northerly limit of the Shawanaga Indian Reserve No. 17;

Thence easterly along the southerly boundary of the Township of Georgian Bay North Archipelago to the easterly boundary of the said Township;

Thence northerly along the easterly boundary of the said Township to the northeasterly angle of the said Township;

Thence westerly along the northerly boundaries of the said Township to the point of commencement.

WARD 2—BAYFIELD-NARES—which shall comprise that part of the former Township of Georgian Bay North Archipelago commencing at the intersection of the northerly boundary of the Township of Georgian Bay North Archipelago and the centre line of the road allowance between lots 40 and 41 in Concession XIV of the geographic Township of Harrison;

Thence southerly along the centre line of the said road allowance to the southerly limit of Concession VI of the said Township;

Thence westerly along that southerly limit to the high water mark of the Blanc Bay;

Thence southwesterly along the northerly high water mark of the Blanc Bay and Georgian Bay to Nares Point;

Thence south $69^{\circ} 08' 20''$ west to the westerly boundary of the Township of Georgian Bay North Archipelago in the middle of Georgian Bay;

Thence northerly along the said westerly boundary to the northerly boundary of the said Township;

Thence easterly along the said northerly boundary to the point of commencement.

WARD 3—POINT AU BARIL-SHAWANAGA—which shall comprise that part of the former Township of Georgian Bay North Archipelago commencing at the intersection of the southerly limit of Concession VI and the centre line of the road allowance between lots 35 and 36 in the geographic Township of Harrison;

Thence westerly along the southerly limit of the said Concession VI to the high water mark of the Blanc Bay;

Thence southwesterly along the northerly high water mark of the Blanc Bay and Georgian Bay to Nares Point;

Thence south $69^{\circ} 08' 20''$ west to the westerly boundary of the Township of Georgian Bay North Archipelago in the middle of Georgian Bay;

Thence southerly along the westerly boundary of the said Township to the southerly boundary of the said Township;

Thence easterly along the said southerly boundary being to and along the southerly boundary of the geographic Township of Shawanaga to the easterly boundary of the Township of Georgian Bay North Archipelago;

Thence northerly along the easterly boundary of the said Township to the southerly boundary of the Shawanaga Indian Reserve No. 17;

Thence northerly following the boundaries between the said Township and Indian Reserve No. 17 to the centre line of the Canadian Pacific Railways right of way;

Thence northerly along the said Railway right of way to the centre line of the road allowance between concessions II and III of the geographic Township of Harrison;

Thence westerly along the centre line of the said road allowance to the high water mark of Georgian Bay;

Thence northwesterly following the middle of the waters north of Hearts Content, Oliver Island and Ozone Island and east of Barclay Island to the intersection of the high water mark of Georgian Bay and the centre line of the road allowance between lots 35 and 36 in the said Township of Harrison;

Thence northerly along the centre line of the said road allowance to the point of commencement.

WARD 4—SANS SOUCI-SOUTH CHANNEL—which shall comprise that part of the former Township of Georgian Bay South Archipelago commencing at boundary intersection of the southerly boundary of the geographic Township of Conger and the southerly prolongation of the westerly limit of Lot 38 in the said Township;

Thence northerly to and along the westerly limit of Lot 38 in concessions I, II, III and IV in the Township of Conger to the centre line of the road allowance between concessions IV and V;

Thence easterly along the centre line of the said road allowance to the centre line of the road allowance between lots 35 and 36 in the Township of Conger;

Thence northerly along the centre line of the said road allowance to the northerly boundary of the Township of Conger;

Thence westerly along the northerly boundary of the Township of Conger to the easterly boundary of the geographic Township of Cowper;

Thence northerly along the easterly boundary of the Township of Georgian Bay South Archipelago to the northerly boundary of the said Township;

Thence westerly along the northerly boundary of the Township of Georgian Bay South Archipelago to the westerly boundary of the said Township in the middle of Georgian Bay;

Thence southerly along the westerly boundary of the Township of Georgian Bay South Archipelago to the southerly boundary of the said Township;

Thence easterly along the southerly boundary of the Township of Georgian Bay South Archipelago to the point of commencement.

WARD 5—CRANE-BLACKSTONE—which shall comprise that part of the former Township of Georgian Bay South Archipelago.

Beginning at the intersection of the northerly boundary of the geographic Township of Conger and the centre line of the road allowance between lots 35 and 36 in the said Township;

Thence southerly along the centre line of the said road allowance to the centre line of the road allowance between concessions VI and VII of the said Township;

Thence easterly along the centre line of the said road allowance to the northerly prolongation of the westerly limit of Lot 22 in Concession VI;

Thence southerly to and along the westerly limit of Lot 22 to the southerly limit of Concession VI;

Thence easterly along the southerly limit of Concession VI to the easterly limit of Lot 10 in the said Concession;

Thence northerly along the easterly limit of Lot 10 in concessions VI to XII, both inclusive, to the northerly boundary of the Township of Conger;

Thence westerly along the northerly boundary of the said Township to the point of commencement.

WARD 6—HEALEY-KAPIKOG—which shall comprise that part of the former Township of Georgian Bay South Archipelago.

Beginning at the intersection of the southerly boundary of the geographic Township of Conger and the southerly prolongation of the westerly limit of Lot 38 in Concession 1 of the said Township;

Thence northerly to and along the westerly limit of Lot 38 in concessions I, II, III and IV to the centre line of the road allowance between concessions IV and V;

Thence easterly along the centre line of the said road allowance to the centre line of the road allowance between lots 35 and 36 in the said Township;

Thence northerly along the centre line of the said road allowance to the centre line of the road allowance between concessions VI and VII of the said Township;

Thence easterly along the centre line of the said road allowance to the northerly prolongation of the westerly limit of Lot 22 in Concession VI;

Thence southerly to and along the westerly limit of Lot 22 to the southerly limit of Concession VI;

Thence easterly along the southerly limit of Concession VI to the easterly limit of Lot 10 in Concession VI;

Thence southerly along the easterly limit of Lot 10 in concessions V and IV to the northerly limit of Concession III;

Thence easterly along the northerly limit of Concession III to the easterly limit of Lot 5 in Concession III;

Thence southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II of the said Township of Conger;

Thence easterly along the southerly limit of Concession II to the northwesterly limit of King's Highway No. 612;

Thence southwesterly along the northwesterly limit of the said King's Highway to the southerly limit of the Township of Conger;

Thence westerly along the southerly boundary of the Township of Georgian Bay South Archipelago to the point of commencement.

Composition
of council

(2) On and after the 1st day of December, 1982, the council of the Township of The Archipelago shall be composed of a reeve, who shall be elected by general vote of the electors of the Township and shall be the head of the council, and ten members as follows:

1. Two members elected from Ward 1.
2. One member elected from Ward 2.
3. Two members elected from Ward 3.
4. Three members elected from Ward 4.
5. One member elected from Ward 5.
6. One member elected from Ward 6.

Alteration
of wards,
etc., by
O.M.B.

R.S.O. 1980,
c. 302

(3) Upon the application of the Township of The Archipelago authorized by a by-law of the council thereof, or upon the petition of electors in accordance with the provisions of section 13 of the *Municipal Act*, the Ontario Municipal Board may, by order,

- (a) divide or redivide the Township into wards, and shall designate the name or number each ward shall bear and shall declare the date when the division or redivision shall take effect;
- (b) alter or dissolve any or all of the wards in the Township and shall declare the date when such alterations or dissolutions shall take effect; or
- (c) vary the composition of the council of the Township,

provided that,

- (d) the reeve of the Township shall continue to be elected by a general vote of the electors and shall be the head of the council.

Stay of
proceedings
pending
completion
of inquiry

(4) Where the Minister institutes an inquiry into the structure, organization and methods of operation of the Township, he may give notice to the Ontario Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection (3) should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Board that they may be continued.

12b. Notwithstanding subsection 46 (2) of the *Municipal Elections Act*, the clerk of the Township may, in order to facilitate voting, direct the establishment of one or more polling places in municipalities directly adjoining the Township or in the Town of Parry Sound.

Establishment
of polling
places in
adjoining
municipalities
R.S.O. 1980,
c. 308

12c. Notwithstanding section 17 of the *Municipal Elections Act*, the clerk of the Township of The Archipelago shall divide the municipality into polling subdivisions and shall, not later than the 1st day of July, 1982, inform the assessment commissioner of the boundaries of each subdivision.

Polling
subdivisions

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *District of Parry Sound Local Government Amendment Act, 1982*.

Commence-
ment

Short title

An Act to amend
The District of Parry Sound
Local Government Act, 1979

1st Reading

April 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 92

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend The District of Parry Sound Local Government Act, 1979

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The District of Parry Sound Local Government Act, 1979

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The District of Parry Sound Local Government Act, 1979*, being chapter 61, is amended by adding thereto the following sections: ss. 12a, 12b,
12c,
enacted

12a.—(1) For the regular election to be held in 1982 and for all elections thereafter, the Township of The Archipelago, incorporated by Minister's Order under section 12, is divided into the following wards: Division of
Township
into Wards

WARD 1—POINTE AU BARIL STATION—which shall comprise that part of the former Township of Georgian Bay North Archipelago commencing at the intersection of the northerly boundary of the Township of Georgian Bay North Archipelago and the centre line of the road allowance between lots 40 and 41 in Concession XIV of the geographic Township of Harrison;

Thence southerly along the centre line of the said road allowance to the southerly limit of Concession VI;

Thence easterly along that southerly limit to the centre line of the road allowance between lots 35 and 36 in the said Township;

Thence southerly along the centre line of the said road allowance to Georgian Bay;

Thence southeasterly following the middle of the waters east of Barclay Island and north of Ozone Island, Oliver Island and Hearts Content to the centre line of the road allowance between concessions II and III of the Township of Harrison;

Thence easterly along the centre line of the said road allowance to the centre line of the Canadian Pacific Railway's right of way;

Thence southerly along that centre line of Railway to the northerly limit of the Shawanaga Indian Reserve No. 17;

Thence easterly along the southerly boundary of the Township of Georgian Bay North Archipelago to the easterly boundary of the said Township;

Thence northerly along the easterly boundary of the said Township to the northeasterly angle of the said Township;

Thence westerly along the northerly boundaries of the said Township to the point of commencement.

WARD 2—BAYFIELD-NARES—which shall comprise that part of the former Township of Georgian Bay North Archipelago commencing at the intersection of the northerly boundary of the Township of Georgian Bay North Archipelago and the centre line of the road allowance between lots 40 and 41 in Concession XIV of the geographic Township of Harrison;

Thence southerly along the centre line of the said road allowance to the southerly limit of Concession VI of the said Township;

Thence westerly along that southerly limit to the high water mark of the Blanc Bay;

Thence southwesterly along the northerly high water mark of the Blanc Bay and Georgian Bay to Nares Point;

Thence south $69^{\circ} 08' 20''$ west to the westerly boundary of the Township of Georgian Bay North Archipelago in the middle of Georgian Bay;

Thence northerly along the said westerly boundary to the northerly boundary of the said Township;

Thence easterly along the said northerly boundary to the point of commencement.

WARD 3—POINT AU BARIL-SHAWANAGA—which shall comprise that part of the former Township of Georgian Bay North Archipelago commencing at the intersection of the southerly limit of Concession VI and the centre line of the road allowance between lots 35 and 36 in the geographic Township of Harrison;

Thence westerly along the southerly limit of the said Concession VI to the high water mark of the Blanc Bay;

Thence southwesterly along the northerly high water mark of the Blanc Bay and Georgian Bay to Nares Point;

Thence south $69^{\circ} 08' 20''$ west to the westerly boundary of the Township of Georgian Bay North Archipelago in the middle of Georgian Bay;

Thence southerly along the westerly boundary of the said Township to the southerly boundary of the said Township;

Thence easterly along the said southerly boundary being to and along the southerly boundary of the geographic Township of Shawanaga to the easterly boundary of the Township of Georgian Bay North Archipelago;

Thence northerly along the easterly boundary of the said Township to the southerly boundary of the Shawanaga Indian Reserve No. 17;

Thence northerly following the boundaries between the said Township and Indian Reserve No. 17 to the centre line of the Canadian Pacific Railways right of way;

Thence northerly along the said Railway right of way to the centre line of the road allowance between concessions II and III of the geographic Township of Harrison;

Thence westerly along the centre line of the said road allowance to the high water mark of Georgian Bay;

Thence northwesterly following the middle of the waters north of Hearts Content, Oliver Island and Ozone Island and east of Barclay Island to the intersection of the high water mark of Georgian Bay and the centre line of the road allowance between lots 35 and 36 in the said Township of Harrison;

Thence northerly along the centre line of the said road allowance to the point of commencement.

WARD 4—SANS SOUCI-SOUTH CHANNEL—which shall comprise that part of the former Township of Georgian Bay South Archipelago commencing at boundary intersection of the southerly boundary of the geographic Township of Conger and the southerly prolongation of the westerly limit of Lot 38 in the said Township;

Thence northerly to and along the westerly limit of Lot 38 in concessions I, II, III and IV in the Township of Conger to the centre line of the road allowance between concessions IV and V;

Thence easterly along the centre line of the said road allowance to the centre line of the road allowance between lots 35 and 36 in the Township of Conger;

Thence northerly along the centre line of the said road allowance to the northerly boundary of the Township of Conger;

Thence westerly along the northerly boundary of the Township of Conger to the easterly boundary of the geographic Township of Cowper;

Thence northerly along the easterly boundary of the Township of Georgian Bay South Archipelago to the northerly boundary of the said Township;

Thence westerly along the northerly boundary of the Township of Georgian Bay South Archipelago to the westerly boundary of the said Township in the middle of Georgian Bay;

Thence southerly along the westerly boundary of the Township of Georgian Bay South Archipelago to the southerly boundary of the said Township;

Thence easterly along the southerly boundary of the Township of Georgian Bay South Archipelago to the point of commencement.

WARD 5—CRANE-BLACKSTONE—which shall comprise that part of the former Township of Georgian Bay South Archipelago.

Beginning at the intersection of the northerly boundary of the geographic Township of Conger and the centre line of the road allowance between lots 35 and 36 in the said Township;

Thence southerly along the centre line of the said road allowance to the centre line of the road allowance between concessions VI and VII of the said Township;

Thence easterly along the centre line of the said road allowance to the northerly prolongation of the westerly limit of Lot 22 in Concession VI;

Thence southerly to and along the westerly limit of Lot 22 to the southerly limit of Concession VI;

Thence easterly along the southerly limit of Concession VI to the easterly limit of Lot 10 in the said Concession;

Thence northerly along the easterly limit of Lot 10 in concessions VI to XII, both inclusive, to the northerly boundary of the Township of Conger;

Thence westerly along the northerly boundary of the said Township to the point of commencement.

WARD 6—HEALEY-KAPIKOG—which shall comprise that part of the former Township of Georgian Bay South Archipelago.

Beginning at the intersection of the southerly boundary of the geographic Township of Conger and the southerly prolongation of the westerly limit of Lot 38 in Concession 1 of the said Township;

Thence northerly to and along the westerly limit of Lot 38 in concessions I, II, III and IV to the centre line of the road allowance between concessions IV and V;

Thence easterly along the centre line of the said road allowance to the centre line of the road allowance between lots 35 and 36 in the said Township;

Thence northerly along the centre line of the said road allowance to the centre line of the road allowance between concessions VI and VII of the said Township;

Thence easterly along the centre line of the said road allowance to the northerly prolongation of the westerly limit of Lot 22 in Concession VI;

Thence southerly to and along the westerly limit of Lot 22 to the southerly limit of Concession VI;

Thence easterly along the southerly limit of Concession VI to the easterly limit of Lot 10 in Concession VI;

Thence southerly along the easterly limit of Lot 10 in concessions V and IV to the northerly limit of Concession III;

Thence easterly along the northerly limit of Concession III to the easterly limit of Lot 5 in Concession III;

Thence southerly along the easterly limit of Lot 5 in concessions III and II to the southerly limit of Concession II of the said Township of Conger;

Thence easterly along the southerly limit of Concession II to the northwesterly limit of King's Highway No. 612;

Thence southwesterly along the northwesterly limit of the said King's Highway to the southerly limit of the Township of Conger;

Thence westerly along the southerly boundary of the Township of Georgian Bay South Archipelago to the point of commencement.

Composition
of council

(2) On and after the 1st day of December, 1982, the council of the Township of The Archipelago shall be composed of a reeve, who shall be elected by general vote of the electors of the Township and shall be the head of the council, and ten members as follows:

1. Two members elected from Ward 1.
2. One member elected from Ward 2.
3. Two members elected from Ward 3.
4. Three members elected from Ward 4.
5. One member elected from Ward 5.
6. One member elected from Ward 6.

Alteration
of wards,
etc., by
O.M.B.

R.S.O. 1980,
c. 302

(3) Upon the application of the Township of The Archipelago authorized by a by-law of the council thereof, or upon the petition of electors in accordance with the provisions of section 13 of the *Municipal Act*, the Ontario Municipal Board may, by order,

- (a) divide or redivide the Township into wards, and shall designate the name or number each ward shall bear and shall declare the date when the division or redivision shall take effect;
- (b) alter or dissolve any or all of the wards in the Township and shall declare the date when such alterations or dissolutions shall take effect; or
- (c) vary the composition of the council of the Township,

provided that,

- (d) the reeve of the Township shall continue to be elected by a general vote of the electors and shall be the head of the council.

Stay of
proceedings
pending
completion
of inquiry

(4) Where the Minister institutes an inquiry into the structure, organization and methods of operation of the Township, he may give notice to the Ontario Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection (3) should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Board that they may be continued.

12b. Notwithstanding subsection 46 (2) of the *Municipal Elections Act*, the clerk of the Township may, in order to facilitate voting, direct the establishment of one or more polling places in municipalities directly adjoining the Township or in the Town of Parry Sound.

Establishment
of polling
places in
adjoining
municipalities
R.S.O. 1980,
c. 308

12c. Notwithstanding section 17 of the *Municipal Elections Act*, the clerk of the Township of The Archipelago shall divide the municipality into polling subdivisions and shall, not later than the 1st day of July, 1982, inform the assessment commissioner of the boundaries of each subdivision.

Polling
subdivisions

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *District of Parry Sound Local Government Amendment Act, 1982*.

Commence-
ment

Short title

An Act to amend
The District of Parry Sound
Local Government Act, 1979

1st Reading

April 29th, 1982

2nd Reading

June 29th, 1982

3rd Reading

June 30th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Public Utilities Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTES

SECTION 1. Subsection 30 (1) of the Act as it now reads is set out below showing underlined the words to be deleted by the proposed re-enactment:

- (1) *The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to Ontario Hydro for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due, and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon the lands in the same manner and to the same extent as municipal taxes upon land.*

The effect is to exclude Ontario Hydro from the application of the subsection and to remove the three-month limitation period on the amount of arrears that constitutes a lien. Ontario Hydro has a similar lien under section 73 of the *Power Corporation Act* in respect of amounts owing to it for the supply of power and the reference to it in this section of the *Public Utilities Act* is accordingly unnecessary.

SECTION 2. This section of the Bill makes the re-enacted subsection of the Act applicable to all amounts payable on the day the Act comes into force and to all amounts that become payable thereafter.

BILL 93

1982

An Act to amend the Public Utilities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 30 (1) of the *Public Utilities Act*, being chapter 423 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due, and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon the lands in the same manner and to the same extent as municipal taxes upon land.

s. 30 (1),
re-enacted
Amount
payable
forms lien
on land

2. Subsection 30 (1) of the *Public Utilities Act*, as re-enacted by section 1 of this Act, applies to all amounts payable on the day this Act comes into force and to all amounts that become payable thereafter to a municipal corporation or to a public utility or hydro-electric commission of a municipality by the owner or occupant of any lands for the public utility supplied to him for use thereon.
3. This Act comes into force on the day it receives Royal Assent.
4. The short title of this Act is the *Public Utilities Amendment Act, 1982*.

Application

Commence-
ment

Short title

An Act to amend the Public Utilities Act

1st Reading

April 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 93

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Public Utilities Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

BILL 93

1982

An Act to amend the Public Utilities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 30 (1) of the *Public Utilities Act*, being chapter 423 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 30 (1),
re-enacted

(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due, and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands and in the case of an amount payable by the owner of lands, the amount is a lien and charge upon the lands in the same manner and to the same extent as municipal taxes upon land. Amount
payable
forms lien
on land

2. Subsection 30 (1) of the *Public Utilities Act*, as re-enacted by section 1 of this Act, applies to all amounts payable on the day this Act comes into force and to all amounts that become payable thereafter to a municipal corporation or to a public utility or hydro-electric commission of a municipality by the owner or occupant of any lands for the public utility supplied to him for use thereon. Application
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Public Utilities Amendment Act*, 1982. Short title

An Act to amend the Public Utilities Act

1st Reading

April 29th, 1982

2nd Reading

October 21st, 1982

3rd Reading

November 2nd, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to repeal The North Pickering Development
Corporation Act, 1974**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTE

The Bill repeals the Act and dissolves the North Pickering Development Corporation that was established under it. The property, rights and obligations of the dissolved Corporation are vested in the Ontario Land Corporation.

BILL 94

1982

An Act to repeal The North Pickering Development Corporation Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. On the day this Act comes into force, the North Pickering Development Corporation, a corporation established under *The North Pickering Development Corporation Act, 1974*, being chapter 124, is dissolved and all its real and personal property of any kind whatsoever and all its rights and privileges, including all rights under any agreement entered into by the North Pickering Development Corporation and all causes of action are on that day assigned to and vested in the Ontario Land Corporation, and all obligations, liabilities and responsibilities of the North Pickering Development Corporation become on that day obligations, liabilities and responsibilities of the Ontario Land Corporation.

North
Pickering
Development
Corporation
dissolved and
its property,
rights and
obligations
vested in
Ontario Land
Corporation
2. *The North Pickering Development Corporation Act, 1974*, being chapter 124, is repealed.

Act
repealed
3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
4. The short title of this Act is the *North Pickering Development Corporation Repeal Act, 1982*.

Short title

An Act to repeal
The North Pickering Development
Corporation Act, 1974

1st Reading

April 29th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Legislative Assembly Act

MR. SWART

EXPLANATORY NOTE

The purpose of the proposed section 1 is to provide that the Legislature sit part of every month during the year instead of the current policy whereby it may sit continuously for a four-month period in the spring and two months in the fall and be recessed or adjourned for the rest of the year.

The proposed section 2 declares that the designations "Member of the Legislative Assembly" and "M.L.A." are the official designations of persons who are elected to the Legislative Assembly. It provides that only members of the Legislative Assembly are entitled to use either of the official designations in association with themselves while sitting as elected members of the Assembly and during the succeeding election period. The intent is to have the designation conform more closely to designations used in other provinces and to eliminate confusion between the designations M.P.P. and M.P.

BILL 95

1982

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 4,
re-enacted

4.—(1) There shall be a session of the Legislature once at least in every year, and not more than one calendar month shall intervene between the last sitting of the Legislature in one session and its first sitting in the next. Yearly
session

(2) During session, the Legislature shall sit at least once every month so that one calendar month does not intervene between one sitting and the next. Monthly
sittings

2. The said Act is amended by adding thereto the following section: s. 17a,
enacted

17a.—(1) The designations “Member of the Legislative Assembly” and “M.L.A.” shall be the official designations of a person who is elected to the Assembly and no person shall use either of the official designations in association with himself or otherwise purport to be a member of the Assembly unless that person is an elected member of the Assembly. Official
designation
of members

(2) Nothing in subsection (1) prohibits a person who is a member of the Assembly from using the official designation “Member of the Legislative Assembly” or “M.L.A.” during the election period immediately following the dissolution of the Legislature to which the person was elected but that person is not entitled to use either of the official designations after the polling day in the election unless the person has been elected to the succeeding Legislature. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Legislative Assembly Amendment Act, 1982*. Short title

An Act to amend the
Legislative Assembly Act

1st Reading

April 29th, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting Environmental Rights in Ontario

MR. ELSTON

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

BILL 96

1982

An Act respecting Environmental Rights in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION AND PURPOSE

1. In this Act,

Interpre-
tation

- (a) "Board" means the Environmental Assessment Board established under the *Environmental Assessment Act*; R.S.O. 1980,
c. 140
- (b) "contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of man which may,
 - (i) impair the quality of the environment or the public trust therein for any use that can be made of it,
 - (ii) cause injury or damage to property or to plant or animal life,
 - (iii) cause harm or material discomfort to any person,
 - (iv) adversely affect the health or impair the safety of any person, or
 - (v) render any property or plant or animal life unfit for use by man,

and "contamination" has a corresponding meaning;

- (c) "Court" means the Supreme Court of Ontario;
- (d) "degradation" refers to any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and "degrade" has a corresponding meaning;
- (e) "environment" means,
 - (i) air, land or water,
 - (ii) plant and animal life, including man,
 - (iii) the social, economic and cultural conditions that influence the life of man or a community,
 - (iv) any building, structure, machine or other device or thing made by man,
 - (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or
 - (vi) any part or combination of the foregoing and the inter-relationships between any two or more of them,
 in or of Ontario;
- (f) "Minister" means the Minister of the Environment;
- (g) "public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;
- (h) "regulation" means a regulation made under an Act listed in the Schedule to this Act.

Environ-
mental
rights

2.—(1) The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation. Declaration

3.—(1) Where a person considers that the environment is being contaminated or degraded he may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation. Request
for
investigation

(2) Where the Minister receives a written request under subsection (1) and, where he is satisfied that the request is made in good faith and is not frivolous, he shall make, or cause to be made, any investigation that he considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action. Written
request

(3) Upon an investigation referred to in subsection (2) being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation. Report

PART II

CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against, Right of
action

(a) any person who is responsible for the activity; and

(b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule. Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to, Court
may
determine
standard

- (a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;
- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security
for costs
or damage

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection (1) shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation
on order

(3) Upon the completion of the hearing referred to in subsection (2), if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 (3) and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that there is no

feasible and prudent alternative to the defendant's activity and that such activity is in the best interests of the public having regard to the matters set out in subsection 4 (3).

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment.

Defence

(3) It shall not be a defence to an action commenced under this Act that,

Prohibited
defences

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary.

Injunction,
etc.

8.—(1) The Court may,

Reference

- (a) on the motion of any party; or
- (b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of the *Statutory Powers Procedure Act* and when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action.

R.S.O. 1980,
c. 484

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.

Inspector

9.—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his findings and his opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to him.

Costs

(2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

PART III

PARTIES, INTERVENORS

Amicus Curiae, CLASS ACTIONS

Parties,
etc.

10. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

11.—(1) In an action under this Act the Court may, by order, permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class action Judgment for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART IV

INSTRUMENTS AND REGULATIONS

12.—(1) In this section,

Inter-
pretation

- (a) “appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;
- (b) “instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;
- (c) “proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section.

Notice of
proposed
instrument

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice,

Sub-
missions

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority shall give notice for a hearing under subsection (3), together with written reasons therefor.

Where
instrument
may be
issued

(6) Where there is no notice of a request for a hearing under subsection (3), or where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority may issue the proposed instrument,

(a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;

(b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of
instrument

(7) Any person may make an application to the Board requesting the Board to review any existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary
hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection (7) unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection (8), or where the Board decides that a *prima facie* case has not been made under subsection (7), the board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of
hearing

(10) Where the appropriate board holds a hearing under subsection (4) or subsection (7), the appropriate board shall,

(a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;

(b) cause notice to be given of the hearing,

(i) to the proper authority,

(ii) to any person who submitted notice to the proper authority under subsection (3),

- (iii) to any person who submitted notice to the Board under subsection (7),
- (iv) to any person as the appropriate board may direct, and
- (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act. Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act. Recommendations, etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

13.—(1) In 1983 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario. Review of regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate. Public notice

(3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session, or if not, at the commencement of the next ensuing session. Report

14.—(1) In this section,

- (a) “regulation-make authority” means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

Notice of proposed regulation

- Publication (2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.
- Effect of contravention (3) A regulation filed in contravention of subsection (2) does not come into effect.

PART V

ACCESS TO INFORMATION

- Interpretation **15.**—(1) In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.
- Right to information (2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.
- Right to examine (3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.
- Idem (4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under his authority relating to any operation subject to an Act listed in the Schedule under his jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.
- Where disclosure may be reduced (5) Notwithstanding subsections (3) and (4), the designated Minister may refuse an application made under subsections (3) and (4) where, in his opinion, the information sought to be disclosed contains,
- (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;

(b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,

- (i) vital statistics,
- (ii) background personal information,
- (iii) medical, criminal, educational or employment records or history,
- (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;

(c) information of a financial, commercial, scientific or technical sort,

- (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
- (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or

(d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

(6) Where the designated Minister, under subsection (5), refuses Notice an application for disclosure of information, he shall, within twenty days, so inform the applicant, together with written reasons thereof, and he shall inform the applicant of his right of appeal to the Board.

(7) Any applicant may, within fifteen days of receipt of a Hearing notice under subsection (6), by written notice served upon the designated Minister and the Board, require a hearing before the Board.

Idem (8) In a hearing under subsection (7), the Board shall take every precaution, including, when appropriate, receiving representations *ex parte* and conducting hearings *in camera*, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.

Onus (9) In a hearing under subsection (7), the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.

Order (10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,

(a) order the disclosure of all or part of the information sought to be disclosed; or

(b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.

Appeal (11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

PART VI

PUBLIC INTEREST FUNDING

**Interpre-
tation** **16.—(1)** In this section,

(a) “Fund” means the Environmental Hearing Assistance Fund.

Fund (2) The Lieutenant Governor in Council may establish a fund to be known as the Environmental Hearing Assistance Fund.

Idem (3) Where a Fund has been established under subsection (2), the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

**Financial
assistance** (4) Subject to subsection (5), whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board.

(5) A person may apply under subsection (4) only where that ^{Idem} person,

- (a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and
- (b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate. ^{Idem}

(7) No person is precluded from applying under subsection (4) ^{Idem} by reason only that he has previously received financial assistance under subsection (6).

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate. ^{Consolidating applications}

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including, ^{Matters to be considered}

- (a) legal fees;
- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

PART VII

EMPLOYEE RIGHTS

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;

No discipline, dismissal, etc., by employer

- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VIII

MISCELLANEOUS

Common
Law
remedies
preserved

18. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

Conflict
R.S.O. 1980,
c. 141

19. Where a conflict appears between any other Act, including the *Environmental Protection Act*, the provision of this Act shall prevail.

Crown

20. This Act binds the Crown.

Commence-
ment

21. This Act comes into force on the day it receives Royal Assent.

Short title

22. The short title of this Act is the *Ontario Environmental Rights Act, 1982*.

SCHEDULE

Conservation Authorities Act

Drainage Act

Environmental Assessment Act

Environmental Protection Act

Mining Act

Niagara Escarpment Planning and Development Act

Ontario Water Resources Act

Pesticides Act

Pits and Quarries Control Act

Planning Act

Consolidated Hearings Act, 1981

Ontario Waste Management Corporation Act, 1981

An Act respecting
Environmental Rights in Ontario

1st Reading

April 29th, 1982

2nd Reading

3rd Reading

MR. ELSTON

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to ensure the Regeneration and Reforestation
of Forests in Ontario**

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to require the Ministry of Natural Resources to prepare a forest resource analysis and forest resource program at regular intervals to assist in ensuring the wise management of forest resources in Ontario.

The Bill also makes it a duty of the Minister to ensure that the forest resources of Ontario are managed on a sustained yield basis.

BILL 97

1982

An Act to ensure the Regeneration and Reforestation of Forests in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Minister" means the Minister of Natural Resources;
- (b) "Ministry" means the Ministry of Natural Resources;
- (c) "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut.

2. It is the duty of the Minister to ensure that the forest resources of Ontario are managed on a sustained yield basis.

3.—(1) Not later than the 31st day of October, 1982, the Minister shall prepare and submit to the Lieutenant Governor in Council a forest resource analysis containing,

Forest
resource
analysis

- (a) a description of the inventory of the forest resources in Ontario;
- (b) a description of the location and extent of areas of forest land in Ontario that,
 - (i) have been denuded of timber through harvesting or otherwise and have not been restocked with commercially valuable species of timber, or
 - (ii) are producing timber at a rate that is substantially lower than their potential;

- (c) a description of the programs of the Ministry respecting public and private forest management, protection, conservation, investment and research;
- (d) an analysis of trends in and a forecast of,
 - (i) domestic and international demand for and uses of the forest resources in Ontario and products manufactured therefrom, and
 - (ii) the supply of the forest resources in Ontario and products manufactured therefrom in relation to the supply from areas outside Ontario; and
- (e) a summary of developments in and questions of public policy that are expected to influence significantly and to affect the use, ownership, licensing and management of forest resources.

Subsequent
analyses

(2) An analysis referred to in subsection (1) shall be prepared and submitted to the Lieutenant Governor in Council at least once in every ten year period following the date that the initial analysis is prepared and submitted.

Forest
resource
program

4.—(1) Not later than the 31st day of October, 1982, the Minister shall prepare and submit to the Lieutenant Governor in Council a forest resource program containing,

- (a) a presentation of the alternatives available for re-stocking forest land, for increasing the productivity of forest land, and for otherwise improving forest resources in Ontario, identifying,
 - (i) the estimated capital and current expenditures associated with each alternative,
 - (ii) the estimated effect of each alternative on the productivity of the resources,
 - (iii) the estimated direct and indirect economic and social benefits and costs associated with each alternative, and
 - (iv) an assessment of the priorities that should be given to each alternative; and
- (b) a program recommended to be implemented by the Ministry during the five year period beginning on the 1st day of April, 1983, for re-stocking forest land, for increasing the productivity of forest land, and for otherwise improving forest resources in Ontario, including,

- (i) a schedule for implementing the program,
- (ii) the method to be used and priorities adopted for implementing the program, and
- (iii) the respective roles to be played by the Crown and the private sector in implementing the program.

(2) A program referred to in subsection (1) shall be prepared and submitted to the Lieutenant Governor in Council at least once in every five year period following the date that the initial program is prepared and submitted. Subsequent programs

5. When the Minister submits a forest resource analysis and forest resource program to the Lieutenant Governor in Council, the Minister shall lay a copy of the analysis or program before the Assembly if it is in session or, if not, at the commencement of the next ensuing session. Tabling in Assembly

6.—(1) The Minister shall submit to the Lieutenant Governor in Council an annual report concerning the work performed by the Ministry in respect of the forest resource analysis and forest resource program referred to in sections 2 and 3 and the Minister shall then lay a copy of the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session. Annual report

(2) The annual report shall include, Idem

- (a) a review of the forest resource program then in effect, a statement of the expenditures incurred to implement it, an assessment of the effect it has had on the productivity of forest resources in the Province and an analysis of the direct and indirect economic and social benefits and costs associated with its implementation; and
- (b) a summary of forest land in the Province, showing areas denuded of forest during the year, areas re-stocked during the year and areas the productivity of which has been improved during the year.

7. This Act comes into force on the day it receives Royal Assent. Commencement

8. The short title of this Act is the *Forest Resource Management Act, 1982*. Short title

An Act to ensure the Regeneration
and Reforestation of Forests in Ontario

1st Reading

May 3rd, 1982

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for Freedom of Information and
Protection of Individual Privacy**

MR. BREITHAUPT

EXPLANATORY NOTE

The Bill provides a broad and comprehensive scheme for public access to, and protection of individual privacy with respect to, information held by government.

BILL 98

1982

An Act to provide for Freedom of Information and Protection of Individual Privacy

WHEREAS the people of Ontario believe in the dignity, ^{Preamble}
worth, and equality of opportunity of every person and
believe that equality is the foundation upon which free, demo-
cratic government is based; and whereas the people of Ontario are
committed to the highest principles of free, democratic govern-
ment; and whereas it is recognized that reasonable openness in
government and the protection of the public from unwarranted
secrecy and unwarranted invasion of personal privacy promote
the principles of free, democratic government;

Therefore, Her Majesty, by and with the advice and consent ^{Purposes}
of the Legislative Assembly of the Province of Ontario, enacts as
follows:

1. The purposes of this Act are,

- (a) to provide a right of access to information under the
control of an institution in accordance with the prin-
ciples that,
 - (i) government information should be available to
the public,
 - (ii) necessary exceptions to the right of access should
be limited and specific, and
 - (iii) decisions on the disclosure of government
information should be reviewed independently
of government; and
- (b) to protect the privacy of individuals with respect to
personal information about themselves held by an
institution and to provide individuals with a right of
access to such information.

2. In this Act,

Interpre-
tation

- (a) "data bank" means a collection of personal information
which is organized and capable of being retrieved;

- (b) "Data Protection Authority" means the body established under subsection 39 (1);
- (c) "data subject" means a person about whom information is gathered and stored;
- (d) "Director of Fair Information Practices" and "Director" mean the Director appointed under subsection 20 (1);
- (e) "Fair Information Practices Tribunal" and "Tribunal" mean the tribunal established under subsection 21 (1);
- (f) "head", in respect of an institution, means a person charged with record keeping responsibilities for the institution who has been designated as such by order of the responsible minister;
- (g) "institution" means a department, agency, division, board, commission, corporation or other body,
 - (i) that is financed exclusively from the Consolidated Revenue Fund,
 - (ii) at least 50 per cent of the shares of which are owned by the Crown in right of Ontario, or
 - (iii) where the Government of Ontario has the power to appoint a majority of the governing body of the institution;
- (h) "personal information" means recorded information about an identifiable individual, including,
 - (i) information relating to the race, national or ethnic origin, colour, religion, age, sex or marital status of the individual,
 - (ii) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
 - (iii) any identifying number, symbol or other particular assigned to the individual,
 - (iv) the address, fingerprints or blood type of the individual,
 - (v) the personal opinions or views of the individual except where they relate to another individual,

- (vi) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the contents of the original correspondence,
 - (vii) the views or opinions of another individual about the individual, and
 - (viii) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;
- (i) "record" means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,
- (i) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microform, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
 - (ii) subject to the regulations, any record that does not exist but is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; and
- (j) "responsible minister" means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 45.

PART I

FREEDOM OF INFORMATION

3. Every person has a right of access to a record under the control of an institution. Right of access

4.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that has control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record. Request

Sufficiency
of detail

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Notice
by head

5. Where a person requests access to a record, the head of the institution to which the request is made shall, subject to section 7, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof.

Transfer
of request

6.—(1) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may, subject to the regulations, transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

When
transferred
request
deemed
made

(2) For the purposes of this section, where a request is transferred under subsection (1), the request shall be deemed to have been made to the institution to which it is transferred on the day the institution to which the request was originally made received it.

Greater
interest

(3) For the purpose of subsection (1), an institution has a greater interest in a record than another institution if,

(a) the record was originally produced in or for such institution; or

(b) in the case of a record not originally produced in or for an institution, such institution was the first institution to receive the record or a copy thereof.

Extension
of time

7.—(1) A head may extend the time limit set out in section 5 or subsection 6 (1) for a period of time that is reasonable in the circumstances, where,

(a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit set out in section 5 or subsection 6 (1) would unreasonably interfere with the operations of the institution; or

- (b) consultations that cannot reasonably be completed within the time limit set out in section 5 or subsection 6 (1) are necessary to comply with the request.

(2) Where a head extends the time limit under subsection (1), Notice of extension the head shall give the person who made the request written notice of the extension setting out,

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Director to review the extension.

8.—(1) Where a head refuses to give access to a record or a part thereof, the head shall state in the notice given under section 5, Contents of notice of refusal

- (a) where the record does not exist, that it does not exist; or
- (b) where the record exists,
 - (i) the specific provision of this Act under which access is refused,
 - (ii) an explanation of the basis for the conclusion that the provision named in subclause (i) applies to the record,
 - (iii) the name and office of the person responsible for making the decision to refuse access, and
 - (iv) that the person who made the request may ask the Director to review the decision.

(2) Where a head fails to comply with section 5 or 7, the head is, for the purposes of this Act, Deemed refusal deemed to have refused to give access to the record.

9.—(1) The head of an institution to which a request is made under subsection 4 (1) may require the person who made the request to pay a fee covering the institution's costs of searching, reproduction and shipping if it is reasonable in all the circumstances to do so. Reasonable access fee

(2) A person who is required to pay a fee under subsection (1) may ask the Director to review the head's decision to charge a fee. Review

Copy of
record

10.—(1) Subject to subsection (2), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations.

Access to
original
record

(2) A head has discretion to allow the person who is given access to the record to examine it or a part thereof in accordance with the regulations.

Exemption
re Cabinet
records

11.—(1) A head may refuse to disclose a record whose disclosure would reveal the substance of deliberations of the Executive Council, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing proposals or recommendations submitted, or prepared for submission, by a minister of the Crown to the Executive Council;
- (c) a record containing background explanations, analyses of problems or policy options submitted or prepared for submission by a minister of the Crown to the Executive Council for its consideration in making decisions, before such decisions are made;
- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
- (e) a record containing briefings to ministers of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation.

Exemption
re advice to
government

(2) A head may refuse to disclose a record containing advice or recommendations of public servants and consultants retained by an institution, unless it is,

- (a) a record which contains mainly factual material;
- (b) a statistical survey;

- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record prepared by an institution charged with the responsibility of monitoring environmental quality;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;
- (g) a feasibility study or other technical study, including a cost estimate, relating to a proposed government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal for the reorganization of the function of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval;
- (j) a report of an inter-departmental committee task force or similar body, or of a committee or task force within an institution, which has been established for the purpose of preparing a report on a particular topic;
- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) a final proposal for the preparation of subordinate legislation;
- (m) a document to which clause 16 (1) (a) or (b) applies; or
- (n) a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling,

and any reason explaining the decision, order or ruling, whether or not the reason,

(i) is contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or

(ii) was given by the officer who made the decision, order or ruling or was incorporated by reference into the decision, order or ruling.

Exemption
re law
enforcement

(3) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

(a) interfere with a law enforcement proceeding;

(b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;

(c) reveal investigative techniques and procedures currently in use or likely to be used;

(d) disclose the identity of a confidential source of information, or disclose information furnished only by the confidential source;

(e) endanger the life or physical safety of a law enforcement officer;

(f) deprive a person of the right to a fair trial or impartial adjudication;

(g) interfere with the gathering of intelligence information respecting organizations or persons;

(h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;

(i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;

(j) facilitate the escape from custody of a person who is under lawful detention;

(k) jeopardize the security of a centre for lawful detention; or

- (l) promote the commission of offences or hamper the control of crime.

(4) Subsection (3) does not apply to a record,

Exceptions

- (a) revealing that the scope of any law enforcement investigation has exceeded the limits imposed by law;
- (b) revealing the use of illegal law enforcement techniques or procedures;
- (c) containing any general outline of the structure and programs of a law enforcement agency;
- (d) that is a report on the degree of success achieved in a law enforcement program or programs, including statistical analysis;
- (e) that is a report prepared in the course of routine law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law other than the criminal law; and
- (f) that is a report on a law enforcement investigation where the substance of the report has been disclosed to the person or body that was the subject of the investigation.

(5) Despite subsection 8 (1), a head may refuse to confirm or deny the existence of a record to which subsection (3) applies.

Refusal
to confirm
or deny
existence
of record

(6) Where a head refuses to confirm or deny the existence of a record, the person who made the request may ask the Director to review the head's decision.

Review

(7) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

Exemption
re relations
with other
governments

- (a) prejudice the relations of the Government of Ontario or the Government of Canada with a foreign government;
- (b) prejudice the defence of Canada; or
- (c) reveal information given or received in confidence by the Government of Ontario.

(8) A head may refuse to disclose a record that reveals a trade secret or other commercial or financial information, except for statistical aggregates, where the disclosure could reasonably be expected to,

Exemption
re
commercial
information

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in information of the same kind no longer being supplied to the institution, where,
 - (i) the information was supplied to the institution on a confidential basis, and
 - (ii) where it is in the public interest that similar information continue to be supplied to the institution;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) unreasonably expose the institution or a commercial or financial enterprise, including a Crown corporation, to disadvantage in competitive activity or in a present or likely process of negotiation, contractual arrangement or similar process.

Exception

(9) Subsection (8) does not apply to a record where the public interest in its disclosure outweighs the commercial interest in its continued confidentiality.

Solicitor-client privilege

(10) A head may refuse to disclose a record that is subject to solicitor-client privilege and was prepared with a view to or for the purpose of litigation.

Exemption re statutory confidentiality provisions

(11) A head may refuse to disclose a record that is specifically exempted from disclosure by a statute that,

- (a) requires that the record be withheld from the public in such a manner as to give the head no discretion; or
- (b) establishes particular criteria for withholding or refers to particular types of records to be withheld from the public.

Exemption re danger to safety

(12) A head may refuse to disclose a record where disclosure could reasonably be expected to threaten the safety of an individual.

Personal privacy

12.—(1) A head shall not disclose personal information to any person other than the individual except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the record pertains;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,
 - (i) the use of disclosure is consistent with the conditions or reasonable expectations of use and disclosure under which the personal information was provided, collected or obtained,
 - (ii) the research purpose for which the disclosure is to be made,
 - (A) cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (B) justifies the risk to the individual which additional exposure of the information might bring,
 - (iii) the qualifications of those who will conduct the research justify the conclusion that the research objectives will be satisfactorily achieved,
 - (iv) the research proposal is soundly designed in terms of its ability to achieve the stated research objectives, its cost effectiveness, and its minimization of disruption of the operations of the institution, and
 - (v) terms and conditions relating to,
 - (A) security and confidentiality,
 - (B) the destruction of the individual identifier or identifiers associated with the

record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and

- (C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,

have been approved by the Data Protection Authority under clause 40 (g) and the person obtaining the record has filed with the Data Protection Authority a written statement indicating that the person understands and will abide by the terms and conditions; or

- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Criteria
re invasion
of privacy

(2) A person or tribunal, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the data subject will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable; and
- (h) the personal information has been supplied by the data subject in confidence,

and shall take into account any other relevant circumstance.

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information, Presumed invasion of privacy

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation, except for personal information confirming an individual's presence in a health care facility;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment history;
- (e) was obtained on an income tax return or similar return or gathered by an institution for the purpose of collecting an income tax or similar tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations;
- (h) indicates the individual's racial or ethnic origin or religious or political beliefs and associations; or
- (i) is required to be kept confidential by law.

13. Where an institution receives a request for access to a record that contains information which the head may refuse to disclose and information which the head may not refuse to disclose, the head shall disclose any reasonably severable portion of the record. Severability of record

14. The Lieutenant Governor in Council shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out, Publication of information re institutions

- (a) where a request for a record should be made;
- (b) where the material referred to in sections 15, 16 and 17 has been made available;

- (c) details of all boards, councils, committees and other bodies consisting of two or more persons that form part of or have been established for the purpose of advising the institution, and whose meetings are open to the public, or whose minutes of meetings are available for public inspection; and
- (d) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

15. A head shall make available for inspection and copying by the public, at an office of the institution and at another government office or a public library, a fully indexed compilation containing,

- (a) a description of the organization and operating procedures of the institution, including,
 - (i) the functions of and the programs administered by each office, division or branch of the institution,
 - (ii) the general types of decisions made by each such office, division or branch in the exercise of any such function or in the administration of any such program,
 - (iii) the titles of officers who have final authority to make any such decisions, and any delegation of that authority,
 - (iv) the formal and informal administrative procedures used for consultation with the public or in the making of any such delegation, and
 - (v) the general manner by which matters arising in the exercise of any function are initiated, processed, channeled and determined;
- (b) a list of the general classes or types of records prepared by or in the possession of the institution;
- (c) the title and business address of each head of the institution who has been designated under section 2 with responsibility to process requests for records and the class of records in relation to which each officer has responsibility; and
- (d) any amendment of information referred to in clauses (a), (b) and (c) which has been made available in accordance with this section.

16.—(1) A head shall make available, in the manner described in section 15, any document which has been prepared by the institution, whether before or after this Act comes into force, and issued to officers of the institution and which contains, Institution documents

- (a) interpretations of the provisions of any enactment or scheme administered by the institution where the interpretations are to be applied by, or are to be guidelines for, any officer who determines,
 - (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,
 - (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
 - (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

(2) A head may delete from a document made available under subsection (1) any record which the head would be entitled to refuse to disclose, except under subsection 11 (2), where the head includes in the document, Deletions

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

(3) Subsections (1) and (2) apply to amendments to documents. Amendments

(4) The documents made available under this section shall be fully indexed. Index

17. A head shall make available, in the manner described in section 15, an index of all the institution's final opinions, orders, Opinions of institution

including concurring and dissenting opinions, and orders made in the adjudication of cases affecting the public.

Annual
report

18.—(1) A head shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Contents
of report

(2) A report made under subsection (1) shall specify,

- (a) the number of requests for access to records made to the institution;
- (b) the number of refusals by the head to disclose a document, the provisions of this Act under which disclosure was refused, and the number of occasions on which each provision was invoked;
- (c) the number of applications to the Director for review of a refusal to disclose a document, the number of applications for review of a decision by the head to charge a fee under subsection 9 (1) and, in respect of each application for review of a refusal to disclose a document,
 - (i) the provision of this Act on which the head relied,
 - (ii) the decision of the Director, and
 - (iii) the details of the Director's order;
- (d) the amount of fees collected by the institution under subsection 9 (1);
- (e) the location of any reading room or other facility provided by the institution for the use of a person wishing to inspect or copy a document possessed by the institution;
- (f) the publications, documents or other information regularly on display in the reading room or other facility; and
- (g) such other information as indicates an effort by the institution to put into practice the purpose of this Act.

Notice
to data
subject

19.—(1) Where a head proposes to disclose a record or part thereof that in the opinion of the head may affect the interests of the data subject, the head may, within thirty days after the

request for access is received, give written notice in accordance with subsection (2) to the data subject.

(2) The notice shall contain, Contents of notice

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the data subject;
- (b) a description of the contents of the record or part thereof that relates to the data subject; and
- (c) a statement that the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

(3) A head may extend the time set out in subsection (1) in respect of a request under this Act where the time limit set out in section 5 is extended under section 7 in respect of the same request, but no extension period under this subsection shall exceed the period of the extension under section 7. Extension of time

(4) Where a notice is given under subsection (1), Representation re disclosure

- (a) the data subject, may within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed; and
- (b) the head shall, within thirty days after the notice is given, decide whether or not to disclose the record or the part thereof and give written notice of the decision to the data subject and the person who made the request.

(5) Representations under clause (4) (a) shall be made in writing unless the head permits them to be made orally. Written representations

(6) A notice given under clause (4) (b) shall include, Notice of head's decision

- (a) a statement that the data subject may ask the Director to review the decision within twenty days after the notice is given; and
- (b) a statement that the person who made the request will be given access thereto or to a part thereof, unless within twenty days after the notice is given, a review of the decision is requested.

Access to be
given unless
data subject
appeals

(7) Where, under clause (4) (b), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof after a day twenty days after notice is given under clause (4) (b), unless the data subject asks the Director to review the decision.

Director

20.—(1) The Lieutenant Governor in Council may appoint a Director of Fair Information Practices.

Staff
R.S.O. 1980,
c. 418

(2) The Director may appoint under the *Public Service Act* such officers and employees as are considered necessary from time to time for the Director's purposes.

Remuneration

(3) The Director shall receive such salary or remuneration and expenses as may be fixed by the Lieutenant Governor in Council by order.

Audit

(4) The accounts of the Director shall be audited annually by the Provincial Auditor.

Annual
report

(5) The Director shall make an annual report, in accordance with subsection (6), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Contents
of report

(6) A report made under subsection (5) shall contain,

- (a) an indication of the nature and ultimate resolutions of reviews carried out under subsection 23 (1);
- (b) an assessment of the extent to which institutions are complying with this Act;
- (c) the Director's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to the Act and regulations.

Tribunal
established

21.—(1) The Fair Information Practices Tribunal is hereby established.

Composition

(2) The Tribunal shall be composed of a chairman and at least three other members to be appointed by the Lieutenant Governor in Council.

Remuneration

(3) The members of the Tribunal shall receive such salaries or remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Annual
report

(4) The chairman of the Tribunal shall report annually upon the affairs of the Tribunal to the Speaker of the Assembly who

shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

(5) The chairman of the Tribunal shall from time to time publish a summary of the Tribunal's decisions and its reasons therefor. Summary of decisions

(6) The accounts of the Tribunal shall be audited annually by the Provincial Auditor. Audit

(7) Such officers and employees as are considered necessary from time to time for the purposes of the Tribunal may be appointed under the *Public Service Act*. Staff
R.S.O. 1980,
c. 418

22.—(1) A person who has made a request for access to a record, and, where section 19 applies, a data subject, may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision. Review by
Director

(2) Where the Director receives a request under subsection (1), the Director shall review the decision, upon giving notice of the review to all interested persons. Notice of
review

23.—(1) The Director shall informally inquire into and investigate the circumstances of the decision to be reviewed and may, in writing, appoint any person to assist him or her. Nature of
review

(2) The *Statutory Powers Procedure Act* does not apply to a review under subsection (1). Informality
R.S.O. 1980,
c. 484

(3) The Director may conduct the review or part thereof *in camera*. Private
hearing

(4) In the course of an inquiry or investigation the Director shall give a reasonable opportunity to make representations to all interested persons. Representa-
tions by
interested
parties

24.—(1) After the inquiry or investigation into the circumstances of the decision is complete, the Director shall attempt to reconcile the differences between the parties and, where the dispute cannot be satisfactorily resolved on consent, shall make an order. Consent
resolution
or order

(2) The Director's order may contain any terms and conditions the Director considers appropriate. Terms and
conditions

(3) The Director shall give the persons who received notice of the review under subsection 22 (2) written notice of the order, including, Notice of
order

(a) the reasons therefor; and

(b) a statement that a person who made representations under subsection 23 (4) may appeal the order to the Fair Information Practices Tribunal.

Appeal

25.—(1) A person who made representations under subsection 23 (4) and wishes to exercise the right of appeal may file a written notice of appeal with the Fair Information Practices Tribunal within thirty days of the date of the Director's order.

Tribunal
may hold
private
hearing
R.S.O. 1980,
c. 484

(2) Despite section 9 of the *Statutory Powers Procedure Act*, the Tribunal may hear representations by the head in the absence of the person who made the request where the Tribunal considers that a private hearing will facilitate a full explanation of the reasons for the decision.

Crown
privilege

26.—(1) This Act does not limit the information available to a litigant under the doctrine of Crown privilege.

Powers of
courts and
tribunals

(2) This Act does not affect the power of a court or Tribunal to compel a witness to testify or compel the production of a document.

PART II

PROTECTION OF INDIVIDUAL PRIVACY

Protection
of personal
information

27. No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, or necessary to the proper administration of a lawfully authorized administration activity.

Direct
collection

28.—(1) Personal information that is intended to be used by an institution for an administrative purpose shall only be collected directly from the individual unless,

(a) the individual authorizes another manner of collection;

(b) the personal information may be disclosed to the institution concerned under section 31; or

(c) the Data Protection Authority has authorized the particular act of collection under clause 40 (d).

Notice
to data
subject

(2) Where personal information is collected on behalf of an institution, the head shall inform the individual of,

(a) the legal authority for the collection;

- (b) the principal purpose or purposes for which the personal information is intended to be used;
- (c) whether disclosure is voluntary or mandatory and the consequences of failure to provide the personal information;
- (d) the anticipated use and dissemination of the personal information;
- (e) alternative sources for verification of the personal information;
- (f) the name, title and business telephone number of a public official who can answer the individual's questions about the collection; and
- (g) whether the individual will have access or correction rights with respect to the personal information.

29.—(1) Personal information that has been used by an institution for an administrative purpose shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the personal information. Retention of personal information

(2) A head shall ensure that the institution complies with the regulations with respect to the accuracy and completeness of personal information that is used for an administrative purpose. Accuracy and completeness

(3) A head shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the responsible minister. Disposal of personal information

30. Personal information under the control of an institution shall not be used by the institution without the consent of the individual except, Protection of personal information

- (a) for the purpose for which it was obtained or compiled or for a use consistent with the purpose; or
- (b) for a purpose for which the information may be disclosed to the institution under section 31.

31.—(1) A head may disclose personal information under the control of the institution, Where disclosure permitted

- (a) in accordance with Part I;

- (b) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;
- (c) under statutory provisions that establish specific criteria for the use or disclosure of the information;
- (d) where disclosure is by a law enforcement institution to another law enforcement institution in Canada or to a law enforcement institution in a foreign country under a written agreement, treaty or legislative authority;
- (e) in compelling circumstances affecting the health and safety of an individual;
- (f) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (g) to a member of the Legislative Assembly who has been authorized by a constituent to make an inquiry on his behalf or, where the constituent is incapacitated, has been authorized by a relative or legal representative of the constituent;
- (h) to the Provincial Auditor;
- (i) to the Ombudsman;
- (j) to the Data Protection Authority;
- (k) to the Director of Fair Information Practices;
- (l) to the Fair Information Practices Tribunal;
- (m) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (n) to the Archives of Ontario; and
- (o) to Statistics Canada.

Retention
of requests
re law
enforcement

(2) A head shall retain a copy of every request received by the institution under clause (1) (d) for the period of time as may be prescribed by regulation and shall, on the request of the Data Protection Authority, make the copy available to the Authority.

32.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal data bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clause 34 (1) (d) and shall attach or link the record of use to the personal information.

Retention
of record
of use

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

Record of
use part
of personal
information

(3) Where personal information in a data bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not included in the statement of consistent uses set forth under clause 34 (1) (d), the head shall,

Notice and
publication

- (a) forthwith notify the Data Protection Authority of the use or disclosure; and
- (b) ensure that the use is included in the next statement of consistent uses set forth in the index.

33. A head shall cause to be included in a data bank all personal information under the control of the institution that,

Data
banks

- (a) has been used, is being used or is available for use for an administrative purpose; or
- (b) is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

34.—(1) The responsible minister shall publish at least once each year an index of all data banks containing personal information setting forth, in respect of each data bank,

Personal
information
data bank
index

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) the principal uses of the personal information and the categories of users to whom disclosures from the system are typically made;
- (e) any other uses and purposes for which personal information in the data bank is used or disclosed on a regular basis;

- (f) the categories of individuals for whom records are maintained in the system;
- (g) the policies and practices applicable to the system with respect to storage, retrievability, access controls, retention and disposal of personal information maintained in the system; and
- (h) the title, business address, and business telephone number of the official responsible for the operation of the data bank.

Availability
of index

(2) The responsible minister shall cause the index referred to in subsection (1) to be made available throughout Ontario in conformity with the principle that every person is entitled to reasonable access to the index.

Right of
access to
personal
information

35.—(1) Every individual has a right of access to,

- (a) any personal information about the individual contained in a data bank under the control of an institution; and
- (b) any other personal information about the individual under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

Right of
correction

(2) Every individual who is given access under clause (1) (a) to personal information about the individual that has been used, is being used or is available for use for an administrative purpose is entitled to,

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed for use for an administrative purpose within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

36.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that has control of the personal information and shall identify the data bank or otherwise identify the location of the personal information. Request

(2) Subsection 4 (2), and sections 5, 6, 7, 8 and 13 apply with all necessary modifications to a request made under subsection (1). Access procedures

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall, Manner of access

(a) permit the individual to examine the personal information; or

(b) provide the individual with a copy thereof.

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used. Comprehensible form

37. A head may refuse to disclose personal information, Exemptions

(a) to which subsections 11 (1), (3), (4), (5), (7), (8), (9), (10) and (11) apply;

(b) whose disclosure would constitute an unwarranted invasion of another individual's personal privacy;

(c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for the awarding of government contracts and other benefits if its disclosure would reveal the identity of a source who furnished information to the institution in confidence;

(d) that is medical information whose disclosure would prejudice the health of the data subject;

(e) that is a correctional record whose disclosure could reasonably be expected to,

(i) seriously disrupt an individual's institutional, parole, or mandatory supervision program,

(ii) reveal information supplied in confidence, or

(iii) result in physical or other harm to the individual or another person; or

(f) that is a research or statistical record.

Review by
Director

38.—(1) An individual who has made a request for access to personal information under subsection 36 (1) or a request for correction under subsection 35 (2) may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.

Review and
further
appeal

(2) Subsection 22 (2), and sections 23, 24 and 25 apply, with all necessary modifications, to a request for review under subsection (1).

Authority
established

39.—(1) The Data Protection Authority is hereby established.

Composition

(2) The Authority shall be composed of a chairman and at least four other members to be appointed by the Lieutenant Governor in Council.

Annual
report

(3) The chairman of the Authority shall report annually upon the affairs of the Authority to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Audit

(4) The accounts of the Authority shall be audited annually by the Provincial Auditor.

Staff

(5) Such officers and employees as are considered necessary from time to time for the purposes of the Authority may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

Powers and
duties of
Authority

40. The Data Protection Authority may,

(a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;

(b) advise on the interpretation and implementation of this Act;

(c) require an institution to,

(i) cease a collection practice, and

(ii) destroy collections of personal information,

that contravene this Act;

- (d) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (e) engage in or commission research into issues affecting the purposes of this Act;
- (f) receive representations from the public concerning the operation of this Act; and
- (g) consider and approve or reject terms and conditions related to a research proposal.

41. Subject to the approval of the Lieutenant Governor in Council, the Data Protection Authority may make regulations, Regulations

- (a) respecting the manner of access to original records under section 10;
- (b) respecting the manner of access to personal information under subsection 36 (3);
- (c) respecting records which may be produced from machine readable records;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution and used for an administrative purpose;
- (f) prescribing time periods for the purposes of subsections 29 (1) and 31 (2); and
- (g) respecting any matter necessary to carry out effectively the purpose of this Act.

42.—(1) No person shall, Offences

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a data bank that contravenes this Act; or
- (c) obtain or attempt to obtain personal information under false pretences.

Penalty (2) Every person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

Right of action **43.** An individual may by action recover from the Crown in right of Ontario pecuniary and other damages suffered as a result of,

(a) a refusal to correct inaccurate personal information under subsection 35 (2);

(b) a contravention of this Act relating to the collection or disclosure of personal information.

Head may delegate **44.** A head may by order delegate any of his or her powers and duties under this Act to an officer or employee of the institution.

Responsible minister **45.** The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act.

Review of other Acts **46.**—(1) The Standing Committee on Procedural Affairs shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Government of Ontario regarding,

(a) the repeal of unnecessary or inconsistent provisions; and

(b) the amendment of provisions that do not conform to the purposes of this Act.

Deemed repeal (2) A confidentiality provision in an Act in existence on the day this Act comes into force is deemed to be repealed on a day two years after the day this Act comes into force unless it is amended or reaffirmed by the Legislative Assembly.

Crown bound **47.** This Act binds the Crown.

Commencement **48.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **49.** The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1982*.

An Act to provide for
Freedom of Information and
Protection of Individual Privacy

1st Reading

May 4th, 1982

2nd Reading

3rd Reading

MR. BREITHAUPT

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to require the provision of
information respecting the Labour Content of Motor Vehicles**

MR. NEWMAN

EXPLANATORY NOTE

The Bill would require that motor vehicle dealers provide every purchaser of a new vehicle with a statement setting out the total number of hours of labour required to produce the vehicle and showing, by percentages, in what countries those hours of labour were performed.

BILL 99

1982

**An Act to require the
provision of information respecting the
Labour Content of Motor Vehicles**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "new motor vehicle" means a motor vehicle, as defined in the *Motor Vehicle Dealers Act*, that has not been driven for any purpose other than delivery to a motor vehicle dealer and servicing;

R.S.O. 1980,
c. 299

- (b) "motor vehicle dealer" means a motor vehicle dealer as defined in the *Motor Vehicle Dealers Act*.

2. Every motor vehicle dealer shall, before selling a new motor vehicle, provide the prospective purchaser with a statement of the labour content of the new motor vehicle showing,

Statement
of labour
content

- (a) the total number of hours of manufacturing labour required to construct and assemble the new motor vehicle, including its constituent parts; and
- (b) by percentages, in what nations the hours of labour were performed.

3. Where a motor vehicle dealer does not comply with section 2, the purchaser may rescind the agreement to purchase the new motor vehicle by delivering a notice of rescission in writing to the motor vehicle dealer at any time before the purchaser takes possession of the new motor vehicle.

Right to
rescind

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Motor Vehicles Labour Content Disclosure Act, 1982*.

Short title

An Act to require the provision of
information respecting the Labour Content
of Motor Vehicles

1st Reading

May 4th, 1982

2nd Reading

3rd Reading

MR. NEWMAN

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting Advertising by Governmental Organizations

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to control the type of advertising placed by the Government of Ontario in broadcasting and print media. The Bill prohibits the placement of advertisements by the Government of Ontario that have the effect of promoting directly or indirectly the political party to which the members of the Executive Council belong. The Bill authorizes the Commission on Election Contributions and Expenses to receive and inquire into complaints concerning government advertising. If the Commission determines that a government advertisement does directly or indirectly promote the political party to which the members of the Executive Council belong, the Government of Ontario must immediately withdraw the advertisement from further use.

BILL 100

1982

An Act respecting Advertising by Governmental Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Commission" means the Commission on Election Contributions and Expenses established under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

- (b) "governmental organization" means a ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof.

2. No governmental organization shall,

Political
advertising
by
government
prohibited

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

if the effect of the advertisement is to promote directly or indirectly the political party to which the members of the Executive Council belong.

3.—(1) An advertisement placed by a governmental organization promotes the political party to which the members of the Executive Council belong if,

Prohibited
government
advertising

- (a) the advertisement contains a logo, slogan, motto or name that is similar to or likely to be identified with a logo, slogan, motto or name of the political party;

- (b) the advertisement features a photograph or voice recording of a member of the Executive Council; or
- (c) the advertisement contravenes guidelines on government advertising established by the Commission.

Guidelines

(2) The Commission shall, within one year after the day on which this Act comes into force, establish guidelines for governmental organizations to assist such organizations in complying with section 2 when placing government advertisements.

Complaint

4.—(1) Where a person believes that a government advertisement contravenes section 2, the person may file a complaint in writing with the Commission concerning the advertisement.

Report

(2) The Commission shall inquire into every complaint and shall make a report within twenty-one days after the complaint was filed to the Speaker of the Assembly or, if the Assembly is dissolved, to the Chief Election Officer indicating whether or not, in the opinion of the Commission, the government advertisement promotes directly or indirectly the political party to which the members of the Executive Council belong.

Withdrawal
of
advertis-
ement

(3) Where the Commission determines that a government advertisement contravenes section 2, the governmental organization that placed the advertisement shall immediately cease to broadcast or publish the advertisement and, where possible, shall withdraw the advertisement from existing uses.

Public
examination
of report

(4) Upon receipt of the Commission's report, the Speaker or the Chief Election Officer, as the case may be, shall provide a copy of the report to the person who filed the complaint, shall make the report available for public examination and shall cause the report to be tabled in the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Government Advertising Control Act, 1982*.

An Act respecting
Advertising by Governmental Organizations

1st Reading

May 4th, 1982

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Election Finances Reform Act**

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to prohibit advertising by the Government of Ontario during a provincial election campaign. The Bill contains exemptions from the general prohibition for advertising related to the administration of the election and advertising required for emergency purposes.

BILL 101

1982

An Act to amend the Election Finances Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Election Finances Reform Act*, being chapter 134 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 38a,
enacted

38a.—(1) The Government of Ontario shall not, during the period between the day the writ for an election is issued and polling day, Limitation
on
government
advertising

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for any purpose.

- (2) Subsection (1) does not apply, Exceptions

- (a) to any advertisement respecting the enumeration and revision of lists of voters or respecting any other matter in relation to the administration of the election; and
- (b) to any advertisement required for emergency purpose, the subject-matter of which is approved before the advertisement is broadcast or published by the leader of each political party represented in the Assembly at the time the writ for the election was issued.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Election Finances Reform Amendment Act, 1982*. Short title

An Act to amend the
Election Finances Reform Act

1st Reading

May 4th, 1982

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Assessment Act

MR. BOUDRIA

EXPLANATORY NOTE

The Bill provides an informal procedure whereby the 1981 and 1982 assessments of real property in which urea formaldehyde foam insulation was installed before December 18, 1980 may be reduced by half and any overpayment of taxes may be refunded.

The Bill also provides that in ordinary assessment appeals, it shall be presumed that the value of real property in which urea formaldehyde insulation was installed before December 18, 1980 has thereby been reduced by half.

BILL 102

1982

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 36a,
enacted

36a.—(1) Despite subsections 36 (1) and (2), where an owner or tenant of real property provides evidence that satisfies the clerk that urea formaldehyde foam insulation was installed in the real property before the 18th day of December, 1980, the clerk shall reduce the 1981 and 1982 assessments by half and shall revise the assessment rolls accordingly. Reduction of
assessment
where
property
insulated
with urea
formaldehyde
foam insulation

(2) The clerk shall, within thirty days after an owner or tenant provides evidence to the clerk under subsection (1), advise every owner or tenant of the real property in writing of the clerk's decision under subsection (1). Notice
of clerk's
decision

(3) An owner or tenant who is dissatisfied with the clerk's decision under subsection (1) may appeal to the Assessment Review Court by mailing a written notice of appeal to the proper regional registrar within thirty days after notice of the clerk's decision is received. Appeal to
Assessment
Review Court

(4) Where a notice of appeal is given under subsection (3), the Assessment Review Court shall determine the manner in an informal manner and its decision is final. Appeal
to be
determined
informally

(5) Where the Assessment Review Court determines that urea formaldehyde foam insulation was installed before the 18th day of December, 1980, in real property, the assessment of which is the subject of an appeal under subsection (3), the regional registrar shall give the clerk written notice of the Court's decision and the clerk shall reduce the 1981 and 1982 assessments and shall revise the assessment rolls accordingly. Reduction of
assessment
on appeal

Adjustment
of taxes

(6) Where an assessment is reduced under subsection (1) or (5), subsection 36 (6) applies with all necessary modifications.

s. 39 (6a),
enacted

- 2.** Section 39 of the said Act is amended by adding thereto the following subsection:

Presumption
re urea
formaldehyde
foam
insulation

(6a) Where the complainant establishes that urea formaldehyde foam insulation was installed in the real property to which the assessment relates before the 18th day of December, 1980 and has not been removed from the real property, there is a presumption that the value of the real property has thereby been reduced by half.

Commence-
ment

- 3.** This Act comes into force on the day it receives Royal Assent.

Short title

- 4.** The short title of this Act is the *Assessment Amendment Act, 1982*.

An Act to amend the Assessment Act

1st Reading

May 6th, 1982

2nd Reading

3rd Reading

MR. BOUDDRIA

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to ensure the Safety of Prescribed
Burns in Ontario**

MR. VAN HORNE

EXPLANATORY NOTE

The purpose of the Bill is to ensure that prescribed burns are conducted in a safe manner. The Bill provides for the appointment of a Fire Safety Officer who is required to examine each place at which it is intended to set a prescribed burn. Prescribed burns are prohibited unless permission is first obtained from the Fire Safety Officer. The Fire Safety Officer must refuse permission if, in the opinion of the officer, it would not be safe to set the prescribed burn. The Bill contains a provision that extends the application of the Bill to the Crown.

BILL 103

1982

An Act to ensure the Safety of Prescribed Burns in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “prescribed burn” means a fire that results from the deliberate application of fire to forest fuels in a specified area for silvicultural, wildlife management, sanitary or hazard reduction purposes. Interpre-
tation

2.—(1) There shall be an officer of the Ministry of the Solicitor General, to be known as the Fire Safety Officer, who shall be appointed by the Lieutenant Governor in Council. Fire Safety
Officer

(2) The Lieutenant Governor in Council may appoint one or more Deputy Fire Safety Officers who may exercise the powers of the Fire Safety Officer under the authority of or in the absence, illness or incapacity of the Fire Safety Officer. Deputy Fire
Safety Officers

3. No person shall set a fire for the purpose of effecting a prescribed burn without having first obtained permission in writing from the Fire Safety Officer, which permission may be limited as to duration and area and may contain such terms and conditions as the Fire Safety Officer considers necessary. Leave to be
obtained
before

4. The Fire Safety Officer, on being requested to set a prescribed burn, shall examine the place at which it is intended to set the fire and the adjacent land and the timber, trees and other property thereon, and he shall refuse the request if, in his opinion, it would not be safe to set a prescribed burn. Inspection
by Fire
Safety Officer

5. The Fire Safety Officer may, at any time, in the interest of safety extinguish a prescribed burn or order any person in charge or apparently in charge of a prescribed burn to extinguish it. Order to
extinguish

6. The permission of a Fire Safety Officer to set a prescribed burn shall not be pleaded or given in evidence in any action for negligently setting a prescribed burn or in mitigation of damages, Leave not to
be relied on
in actions for
negligence

but the absence of such permission is *prima facie* evidence of negligence.

Offence

7. Every person who contravenes section 3 or who fails to comply with an order under section 5 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Application
to Crown

8. This Act binds the Crown.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Prescribed Burns Safety Act, 1982*.

An Act to ensure the Safety of
Prescribed Burns in Ontario

1st Reading

May 10th, 1982

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Consumer Protection Act

MR. VAN HORNE

EXPLANATORY NOTE

The purpose of the Bill is to provide protection against the sale of stolen property. The Bill requires persons who deal in used goods to record the name and address of each person from whom they purchase used goods. A dealer in used goods is prohibited from reselling the goods for a period of seven days after the date of purchase. Where the dealer has reason to suspect that the used goods have been stolen, the dealer is under a duty to report the matter to the police.

An Act to amend the Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 36b,
enacted

36b.—(1) In this section, “dealer in used goods” means a person, association of individuals, partnership or corporation that carries on business as a buyer of used goods for the purposes of resale. Interpre-
tation

(2) Every dealer in used goods shall record each purchase of used goods in a book to be kept by the dealer and shall indicate for each purchase, Record of
used goods
purchase

- (a) the day, month and year in which the purchase was made;
- (b) the full name, address and a description of the person selling the used goods reasonably sufficient to identify that person, and where the person selling the used goods states that he is the agent of the owner, the name and address of the owner;
- (c) a description of the goods reasonably sufficient to identify them; and
- (d) the purchase price of the used goods.

(3) Where a dealer has reasonable cause to suspect that used goods have been stolen or otherwise unlawfully obtained, the dealer shall forthwith report the matter to a member of the police force of the municipality in which the dealer carries on business. Where goods
suspected to
have been
stolen

(4) A dealer shall not offer used goods for sale for at least seven days after the date on which the goods were purchased by the dealer. Waiting
period

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Consumer Protection Amendment Act, 1982*.

An Act to amend the
Consumer Protection Act

1st Reading

May 10th, 1982

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting the Mortgage Financing of Rideau Centre
in the City of Ottawa**

THE HON. N. STERLING
Provincial Secretary for Justice

EXPLANATORY NOTE

Rideau Centre is a major real estate development in downtown Ottawa which is to consist of a convention centre, hotel, office building, retail and commercial facilities and park areas and is intended to be the focus of a significant redevelopment in downtown Ottawa planned by the National Capital Commission. Rideau Centre will be conveyed to the federal Crown in 2033 for a nominal consideration of \$1.00.

It is proposed that the owners, in order to obtain favourable financing for the development, will grant an option to the mortgage lenders to acquire a 35 per cent interest in the development. At common law, an option granted as a part of a mortgage financing transaction is considered to be a clog or fetter on the mortgagor's right to redeem the property upon payment of the moneys owing under the mortgage and for that reason is unenforceable.

It is considered desirable that, having regard to the nature of the development, the common law rule not apply to this transaction because it is too restrictive. Accordingly, the Bill provides that the common law rule does not apply.

BILL 105

1982

An Act respecting the Mortgage Financing of Rideau Centre in the City of Ottawa

HER MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. In this Act,

Inter-
pretation

(a) "development" means,

- (i) the lands and premises described in the Schedule,
- (ii) all buildings, fixtures and improvements now or hereafter erected or located on or under the lands and premises referred to in subclause (i), and
- (iii) all rights-of-way, easements, franchises and privileges now or hereafter benefiting the lands and premises referred to in subclause (i);

(b) "Rideau Centre" means the development and all present and future right, title and interest therein and all present and future benefit and advantage to be derived therefrom, including all leases of, or agreements relating to, all or part of the development and all rentals and other moneys payable under the leases and agreements and all benefit and advantage to be derived therefrom.

2. An option to acquire a legal or beneficial interest in Rideau Centre, granted as part of a mortgage financing of Rideau Centre, is not invalid, unenforceable or void by reason only that the option is inconsistent with or repugnant to, or a fetter or clog on, the mortgagor's legal or equitable right of redemption.

Option
authorized

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

4. The short title of this Act is the *Rideau Centre Mortgage Financing Act, 1982*.

SCHEDULE

All and singular those certain parcels or tracts of land and premises situate, lying and being in the City of Ottawa in the Regional Municipality of Ottawa-Carleton, Province of Ontario, and

Being composed of lands and air space described as follows:

Firstly - All of Lots 4, 5, 6 and 7 on the south side of Rideau Street, all of Lots 4, 5, 6 and 7 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered on the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, together with those portions of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, known as part of Lot 7 and part of Lot 8 on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1, 2, 3 and 4 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Secondly - Part of Freiman Street (formerly Mosgrove Street), closed by By-Law No. 172-80, registered in the said Registry Office as Inst. No. NS89593, together with part of Besserer Street (formerly St. Paul Street), and those lands taken for the widening thereof (namely, part of Little Sussex Street, part of Lots 4 and 5, also known as Forgie's Lot, and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street, part of Lot 1 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying between the Tannery Lot and the Ashery Lot), now closed by By-Law No. 173-80 registered in the said Registry Office as Inst. No. NS86385, and designated as PARTS 5, 6, 7, 8, 9 and 10 on said reference plan No. 5R-5671;

Subject to a public utilities easement in favour of the Corporation of the City of Ottawa in, along and under that portion of the said lands designated as PARTS 18 to 25, both inclusive, on a reference plan deposited in the said Registry Office as No. 5R-5106, and as described in an instrument registered in the said Registry Office as No. NS115590;

Thirdly - Part of Lots 4 and 5 (also known as Forgie's Lot), and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street (closed by By-Law Nos. 328-59 and 7469, registered in the said Registry Office as Inst. Nos. 395967 and 207861 (Firstly) respectively), part of Lot 1, all of Lot 2 and part of Lots 3 and 4 on the east side of Mosgrove Street, all of Lot 2 and part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane) closed by By-Law No. 6583 registered in the said Registry Office as No. 196026, all of Lot 10 and part of Lot 9 on the east side of Turgeon Lane (formerly Mill Lane), all of Lot 1 and part of Lot 2 on the west side of Nicholas Street, part of Little Sussex Street and part of Currier Lane (both closed by By-Law No. 7946 registered in the said Registry Office as Inst. No. 213433), all of Lots 1, 2, 3 and 4 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 and part of the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, all according to the said registered plan No. 3922, together with parts of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 12, 13, 14, 15, 16 and 34 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of Lot 4 on the south side of Besserer Street (formerly St. Paul Street), also known as Forgie's Lot, part of Currier Lane and part of Little Sussex Street (both closed by By-Law No. 7946), part of Lot 1 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 on the south side of Currier Lane, all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 28 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Reserving thereout and therefrom a watermain easement, in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 30 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Fourthly - Part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 207861 (Firstly)), parts of Lot 4 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 7 and 8 on the east side of Turgeon Lane (formerly Mill Lane), all of Lots 6 and 7 and part of Lots 3, 4 and 8 on the west side of Nicholas Street, part of Lot 6 on the north side of Court Street (formerly Albert Street), part of Court Street (formerly Albert Street closed by By-Law Nos. 2254 and 2264, registered in the said Registry Office as Inst. No. 69370, and by By-Law No. 30-69, registered in the said Registry Office as Inst. No. 555007), all of Lots 67 to 72, both inclusive, on the south side of Court Street (formerly Albert Street), part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), all according to said registered plan No. 3922, together with part of the Ordnance Lands being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 38, 39 and 40 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 41, 42, 44, 59, 60, 62, 63, 64 and 79 on said reference plan No. 5R-5557.

Reserving thereout and therefrom a watermain easement in, along and under part of Lot 8 on the west side of Nicholas Street, part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), part of Lots 69, 70 and 71 on the south side of Court Street (formerly Albert Street), according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 42, 43, 47, 48, 49,

52, 55, 60, 61, 62, 64 and 68 on said reference plan No. 5R-5557.

Subject to a Bell Canada easement registered in the said Registry Office as Inst. No. 589377 over those portions of the said lands designated as PARTS 49, 50, 53 and 75 on said reference plan No. 5R-5557.

Fifthly - The air space and all rights therein, over and above those portions of the unnumbered triangular lot lying to the rear of Lot 1 and the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, part of the Tannery Lot, part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 20786 (Firstly)), part of Lots 3 and 4 on the east side of Mosgrove Street, part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane, closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 8 and 9 on the east side of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with parts of the Ordnance Lands being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and which air space is designated as PARTS 17, 18, 19, 20, 21, 22 and 35 on said reference plan No. 5R-5671.

Sixthly - Part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1 and 2 on a reference plan deposited in the said Registry Office as No. 5R-5725.

Seventhly - All of Lot 9 and the west half of Lot 10 on the south side of Rideau Street, all of Lot 9 and the west half of Lot 10 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, and designated as PART 11 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Subject to a right-of-way at all times, for all persons entitled thereto, over, along and upon that portion of the said west half of Lot 10, south Rideau Street and the said

west half of Lot 10, north Besserer Street (formerly St. Paul Street), designated as PART 67 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Together with a right-of-way at all times in common with others entitled thereto, over, along and upon a strip of land being part of the east half of said Lot 10, south Rideau Street and part of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street), described as follows:

Commencing at the southwesterly angle of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street),

Thence northerly along the division line between the east and west halves of the said lot and along the division line between the east and west halves of said Lot 10, south Rideau Street, in all a distance of 37.29 metres;

Thence easterly and parallel with the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), a distance of 1.37 metres;

Thence southerly in a straight line, a distance of 37.29 metres to a point in the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), distant 1.37 metres measured easterly thereon from the said south-westerly angle of the east half thereof;

Thence westerly along the southerly limit of said Lot 10, a distance of 1.37 metres to the said point of commencement.

Subject to the conditions of a party wall agreement as set out in an instrument registered in the said Registry Office as No. 172503.

An Act respecting the Mortgage Financing
of Rideau Centre in the City of Ottawa

1st Reading

May 13th, 1982

2nd Reading

3rd Reading

THE HON. N. STERLING,
Provincial Secretary for Justice

(Government Bill)

BILL 105

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting the Mortgage Financing of Rideau Centre in the City of Ottawa

THE HON. N. STERLING
Provincial Secretary for Justice

BILL 105

1982

An Act respecting the Mortgage Financing of Rideau Centre in the City of Ottawa

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "development" means,

- (i) the lands and premises described in the Schedule,
- (ii) all buildings, fixtures and improvements now or hereafter erected or located on or under the lands and premises referred to in subclause (i), and
- (iii) all rights-of-way, easements, franchises and privileges now or hereafter benefiting the lands and premises referred to in subclause (i);

(b) "Rideau Centre" means the development and all present and future right, title and interest therein and all present and future benefit and advantage to be derived therefrom, including all leases of, or agreements relating to, all or part of the development and all rentals and other moneys payable under the leases and agreements and all benefit and advantage to be derived therefrom.

2. An option to acquire a legal or beneficial interest in Rideau Centre, granted as part of a mortgage financing of Rideau Centre, is not invalid, unenforceable or void by reason only that the option is inconsistent with or repugnant to, or a fetter or clog on, the mortgagor's legal or equitable right of redemption.

Option
authorized

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

4. The short title of this Act is the *Rideau Centre Mortgage Financing Act, 1982*.

SCHEDULE

All and singular those certain parcels or tracts of land and premises situate, lying and being in the City of Ottawa in the Regional Municipality of Ottawa-Carleton, Province of Ontario, and

Being composed of lands and air space described as follows:

Firstly - All of Lots 4, 5, 6 and 7 on the south side of Rideau Street, all of Lots 4, 5, 6 and 7 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered on the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, together with those portions of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, known as part of Lot 7 and part of Lot 8 on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1, 2, 3 and 4 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Secondly - Part of Freiman Street (formerly Mosgrove Street), closed by By-Law No. 172-80, registered in the said Registry Office as Inst. No. NS89593, together with part of Besserer Street (formerly St. Paul Street), and those lands taken for the widening thereof (namely, part of Little Sussex Street, part of Lots 4 and 5, also known as Forgie's Lot, and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street, part of Lot 1 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying between the Tannery Lot and the Ashery Lot), now closed by By-Law No. 173-80 registered in the said Registry Office as Inst. No. NS86385, and designated as PARTS 5, 6, 7, 8, 9 and 10 on said reference plan No. 5R-5671;

Subject to a public utilities easement in favour of the Corporation of the City of Ottawa in, along and under that portion of the said lands designated as PARTS 18 to 25, both inclusive, on a reference plan deposited in the said Registry Office as No. 5R-5106, and as described in an instrument registered in the said Registry Office as No. NS115590;

Thirdly - Part of Lots 4 and 5 (also known as Forgie's Lot), and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street (closed by By-Law Nos. 328-59 and 7469, registered in the said Registry Office as Inst. Nos. 395967 and 207861 (Firstly) respectively), part of Lot 1, all of Lot 2 and part of Lots 3 and 4 on the east side of Mosgrove Street, all of Lot 2 and part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane) closed by By-Law No. 6583 registered in the said Registry Office as No. 196026, all of Lot 10 and part of Lot 9 on the east side of Turgeon Lane (formerly Mill Lane), all of Lot 1 and part of Lot 2 on the west side of Nicholas Street, part of Little Sussex Street and part of Currier Lane (both closed by By-Law No. 7946 registered in the said Registry Office as Inst. No. 213433), all of Lots 1, 2, 3 and 4 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 and part of the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, all according to the said registered plan No. 3922, together with parts of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 12, 13, 14, 15, 16 and 34 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of Lot 4 on the south side of Besserer Street (formerly St. Paul Street), also known as Forgie's Lot, part of Currier Lane and part of Little Sussex Street (both closed by By-Law No. 7946), part of Lot 1 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 on the south side of Currier Lane, all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 28 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Reserving thereout and therefrom a watermain easement, in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 30 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Fourthly - Part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No.7469 registered in the said Registry Office as Inst. No.207861 (Firstly)), parts of Lot 4 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane closed by By-Law No. 6583, registered in the said Registry Office as Inst. No.196026), part of Lots 7 and 8 on the east side of Turgeon Lane (formerly Mill Lane), all of Lots 6 and 7 and part of Lots 3, 4 and 8 on the west side of Nicholas Street, part of Lot 6 on the north side of Court Street (formerly Albert Street), part of Court Street (formerly Albert Street closed by By-Law Nos. 2254 and 2264, registered in the said Registry Office as Inst. No.69370, and by By-Law No. 30-69, registered in the said Registry Office as Inst. No.555007), all of Lots 67 to 72, both inclusive, on the south side of Court Street (formerly Albert Street), part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), all according to said registered plan No.3922, together with part of the Ordnance Lands being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 38, 39 and 40 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 41, 42, 44, 59, 60, 62, 63, 64 and 79 on said reference plan No.5R-5557.

Reserving thereout and therefrom a watermain easement in, along and under part of Lot 8 on the west side of Nicholas Street, part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), part of Lots 69, 70 and 71 on the south side of Court Street (formerly Albert Street), according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 42, 43, 47, 48, 49,

52, 55, 60, 61, 62, 64 and 68 on said reference plan No. 5R-5557.

Subject to a Bell Canada easement registered in the said Registry Office as Inst. No. 589377 over those portions of the said lands designated as PARTS 49, 50, 53 and 75 on said reference plan No. 5R-5557.

Fifthly - The air space and all rights therein, over and above those portions of the unnumbered triangular lot lying to the rear of Lot 1 and the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, part of the Tannery Lot, part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 20786 (Firstly)), part of Lots 3 and 4 on the east side of Mosgrove Street, part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane, closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 8 and 9 on the east side of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with parts of the Ordnance Lands being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and which air space is designated as PARTS 17, 18, 19, 20, 21, 22 and 35 on said reference plan No. 5R-5671.

Sixthly - Part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1 and 2 on a reference plan deposited in the said Registry Office as No. 5R-5725.

Seventhly - All of Lot 9 and the west half of Lot 10 on the south side of Rideau Street, all of Lot 9 and the west half of Lot 10 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, and designated as PART 11 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Subject to a right-of-way at all times, for all persons entitled thereto, over, along and upon that portion of the said west half of Lot 10, south Rideau Street and the said

west half of Lot 10, north Besserer Street (formerly St. Paul Street), designated as PART 67 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Together with a right-of-way at all times in common with others entitled thereto, over, along and upon a strip of land being part of the east half of said Lot 10, south Rideau Street and part of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street), described as follows:

Commencing at the southwesterly angle of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street),

Thence northerly along the division line between the east and west halves of the said lot and along the division line between the east and west halves of said Lot 10, south Rideau Street, in all a distance of 37.29 metres;

Thence easterly and parallel with the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), a distance of 1.37 metres;

Thence southerly in a straight line, a distance of 37.29 metres to a point in the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), distant 1.37 metres measured easterly thereon from the said south-westerly angle of the east half thereof;

Thence westerly along the southerly limit of said Lot 10, a distance of 1.37 metres to the said point of commencement.

Subject to the conditions of a party wall agreement as set out in an instrument registered in the said Registry Office as No. 172503.

An Act respecting the Mortgage Financing
of Rideau Centre in the City of Ottawa

1st Reading

May 13th, 1982

2nd Reading

June 29th, 1982

3rd Reading

June 30th, 1982

THE HON. N. STERLING
Provincial Secretary for Justice

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Legislative Assembly Act

MR. BREAGH

EXPLANATORY NOTE

The purpose of the Bill is to prevent persons from bringing firearms into the Chamber without the Speaker's authorization.

BILL 106

1982

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 45 (1) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:
 12. Bringing or possessing a firearm within the Chamber, including the public galleries, without the authorization of the Speaker.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Legislative Assembly Amendment Act, 1982*.

s. 45 (1),
amended

Bringing
firearms into
Chamber

Commence-
ment

Short title

An Act to amend the
Legislative Assembly Act

1st Reading

May 13th, 1982

2nd Reading

3rd Reading

MR. BREAVOGH

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act respecting French Language Services
in Ontario**

MR. ROY

EXPLANATORY NOTE

This Bill places a duty on the Government of Ontario to provide, as of right, public services in the French language to the citizens of Ontario subject to certain conditions set out in the Bill. The Bill also establishes the office of the French Language Services Co-ordinator and the Language Services Board to aid in improving the availability of French language services in Ontario.

NOTE EXPLICATIVE

Ce projet de loi fait obligation au gouvernement de l'Ontario d'assurer, de droit, des services publics en français aux citoyens de l'Ontario, sous réserve de certaines conditions énoncées dans le texte. Ce projet de loi établit aussi le poste de Coordonnateur des services en langue française ainsi que le Conseil des services en langue française aux fins d'améliorer la disponibilité de services en langue française en Ontario.

BILL 107

1982

An Act respecting French Language Services in Ontario

WHEREAS the French language is an historic, honoured Preamble
and constitutional language of Canada, and whereas
there is need to give legal definition to the rights of citizens
to have Ontario Government services provided in French;

Therefore, Her Majesty, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario, enacts
as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Language Services Board estab-
lished under section 5;
- (b) "Co-ordinator" means the French Language Ser-
vices Co-ordinator appointed under section 6;
- (c) "Government of Ontario" includes every board,
commission, corporation and agency thereof.

2. Subject to section 7, the Government of Ontario shall Government
to provide
French
language
services
ensure the provision of educational, judicial, health, social,
municipal and other public services in Ontario in the French
language in accordance with this Act and with recommenda-
tions contained in the report of the Language Services Board
or a report of the Co-ordinator of French Language Services.

3. The English and French languages may be used by any Legislative
Assembly
person in any proceedings of the Legislative Assembly or a
committee thereof, and the Order Papers, Votes and Pro-
ceedings, records and reports of the Assembly or any com-
mittee thereof may be printed in both the English and French
languages, and any Bill or motion may be introduced in both
the English and French languages, and any Act of the
Legislative Assembly may be printed and published in both
the English and French languages.

Statutes

4.—(1) Subject to sections 6 and 7, the Acts designated by the Co-ordinator of French Language Services shall be printed and published in English and French and the annual Statutes of Ontario shall be printed and published in English and French.

Statutes

(2) Any regulation, proclamation or notice issued in Ontario may be issued in both English and French and where a regulation, proclamation or notice is issued in both languages and is required to be printed in *The Ontario Gazette*, the regulation, proclamation or notice shall be published accordingly in both languages.

Language
Services
Board

5.—(1) The Language Services Board is hereby established and shall be composed of the Co-ordinator of French Language Services, the Chairman of the Civil Service Commission and three members appointed by the Lieutenant Governor in Council of whom at least two shall be persons who are not members of the public service at the time of appointment.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman who shall be a person capable of speaking and understanding the English and French languages.

Term of
office

(3) The members of the Board shall be appointed to hold office for a term of one year commencing on the day of the appointment of the chairman and the Board is terminated on the day on which the terms of office expire.

Duties

(4) The Language Services Board shall,

- (a) review the availability of French language services in all parts of Ontario;
- (b) recommend and designate areas of the Province of Ontario in which government services shall be provided in both English and French;
- (c) recommend the extent to which French language services should be provided in those parts of the Province of Ontario not designated under clause (b);
- (d) recommend a time schedule for implementing the recommendations in clauses (b) and (c), and the Board shall report its findings and recommendations to the Premier before the day on which the Board is terminated and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

6.—(1) A Co-ordinator of French Language Services shall be appointed by the Lieutenant Governor in Council who shall have the rank of Deputy Minister and who shall be responsible for supervising and co-ordinating the provision of French Language Services in Ontario.

Co-ordinator of French Language Services

(2) A French Language Services Committee is hereby established to be composed of one representative from each Ministry of the Government to assist the French Language Services Co-ordinator in carrying out his duties under this Act.

French Language Services Committee

(3) The Co-ordinator after the close of each calendar year shall submit to the Premier an annual report containing an assessment of the availability of French language services in Ontario and any recommendations the Co-ordinator may feel are desirable in order to extend or improve the availability of French language services in Ontario and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Co-ordinator's report

7.—(1) The Government shall implement all recommendations contained in the report of the Language Services Board or a report of the Co-ordinator unless within six months of the day that the report of the Board or Co-ordinator is submitted to the Premier, the Government lays before the Assembly a statement of intention indicating the recommendations which the Government does not intend to implement.

Statement of intention

(2) The report of the Board, every report of the Co-ordinator and every statement of intention stands permanently referred to a Standing Committee of the Legislature for the purposes of examination and review and the Committee shall, at least once in every five year period, review and make recommendations concerning amendments to the Act or changes in administrative procedures designed to improve the availability of French language services in Ontario.

Standing Committee

8.—(1) Nothing in this Act shall be construed as authorising a reduction in the availability of French language services existing on the day this Act comes into force.

Saving

(2) Nothing in this Act shall be construed to prohibit the Government from providing French language services where the provision of such services has not been recommended or considered by the Language Services Board or the Co-ordinator.

Idem

Courts (3) Court proceedings and hearings shall be conducted in
 R.S.O. 1980, the French language in accordance with the *Judicature*
 c. 223 *Act* as amended from time to time.

Commence- **9.** This Act comes into force on the day it receives Royal
 ment Assent.

Short title **10.** The short title of this Act is the *Ontario French*
Language Services Act, 1982.

PROJECT DE LOI 107

1982

Loi concernant les services assurés en français en Ontario

ATTENDU le rôle privilégié que l'histoire et la constitution du Canada reconnaissent à la langue française et attendu que la loi doit sanctionner le droit des citoyens à ce que les services du gouvernement de l'Ontario soient assurés en français,

Préambule

Sa Majesté, sur l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit:

1 Dans la présente loi,

Définitions

“Conseil” désigne le Conseil des services en langue française établi par l'article 5;

“Coordonnateur” désigne le Coordonnateur des services en langue française nommé en vertu de l'article 6;

“Gouvernement de l'Ontario” comprend tout conseil, toute commission, société et tout organisme du gouvernement de l'Ontario.

2 Sous réserve de l'article 7, le gouvernement de l'Ontario assure les services éducatifs, judiciaires, de santé publique, sociaux, municipaux et les autres services publics en français dans la province conformément à la présente loi et aux recommandations du rapport du Conseil des services en langue française ou d'un rapport du Coordonnateur des services en langue française.

Prestation par le gouvernement de services en langue française

3 Quiconque peut employer l'anglais et le français dans toutes délibérations de l'Assemblée législative ou d'un de ses comités et les feuillets, procès-verbaux, comptes rendus et rapports de l'Assemblée ou d'un de ses comités peuvent être imprimés en anglais et en français, et tout projet de loi ou toute motion peuvent être présentés en anglais et en français et toute loi de l'Assemblée législative peut être imprimée et publiée en anglais et en français.

Assemblée législative

4 (1) Sous réserve des articles 6 et 7, les lois désignés par le Coordonnateur des services en langue française sont imprimés et publiés en anglais et en français et les Statuts annuels de l'Ontario sont imprimés et publiés en anglais et en français.

Statuts

Statuts

(2) Tout règlement, toute proclamation ou tout avis émis en Ontario peuvent l'être en anglais et en français et, si un règlement, une proclamation ou un avis sont émis dans les deux langues et doivent être publiés dans l'*Ontario Gazette*, le règlement, la proclamation ou l'avis sont publiés dans les deux langues.

Conseil des services en langue française

5 (1) Il est établi un Conseil des services en langue française composé du Coordonnateur des services en langue française, du président de la Commission de la fonction publique et de trois membres nommés par le lieutenant-gouverneur en conseil, dont deux au moins ne font pas partie de la fonction publique au moment de leur nomination.

Président

(2) Le lieutenant-gouverneur en conseil nomme à titre de président un des membres du Conseil qui parle et comprend l'anglais et le français.

Mandat

(3) Les membres du Conseil sont nommés pour un an à compter du jour de la nomination du président et le Conseil est dissous le jour où les mandats expirent.

Fonctions

(4) Le Conseil des services en langue française

- a) examine la disponibilité des services en langue française dans toutes les régions de la province;
- b) recommande et désigne des régions de la province où les services gouvernementaux doivent être assurés en anglais et en français;
- c) recommande la mesure dans laquelle des services en langue française devraient être assurés dans les régions de la province qui ne sont pas désignées aux termes de l'alinéa b);
- d) recommande un programme d'application des recommandations visées par les alinéas b) et c) et fait rapport de ses conclusions et recommandations au Premier ministre avant sa dissolution et le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Coordonnateur des services en langue française

6 (1) Le lieutenant-gouverneur en conseil nomme un Coordonnateur des services en langue française qui a le rang de sous-ministre et a pour fonction de surveiller et de coordonner la prestation de services en langue française en Ontario.

Comité des services en langue française

(2) Il est établi un Comité des services en langue française composé d'un représentant de chaque ministère et chargé d'ai-

der le Coordonnateur des services en langue française à s'acquitter des fonctions que lui attribue la loi.

(3) À la fin de chaque année civile, le Coordonnateur présente au Premier ministre un rapport annuel renfermant une évaluation de la disponibilité des services en langue française dans la province et les recommandations du Coordonnateur afin d'en accroître ou améliorer la disponibilité. Le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Rapport du Coordonnateur

7 (1) Le gouvernement applique toutes les recommandations formulées dans le rapport du Conseil des services en langue française ou dans un rapport du Coordonnateur, sauf si, dans les six mois à partir du jour où le rapport du Conseil ou du Coordonnateur est présenté au Premier ministre, le gouvernement dépose à l'Assemblée une déclaration d'intention indiquant les recommandations que le gouvernement n'entend pas appliquer.

Déclaration d'intention

(2) Le rapport du Conseil, chaque rapport du Coordonnateur et chaque déclaration d'intention relèvent en permanence d'un Comité permanent de la Législature qui les examine et les étudie et le Comité, au moins une fois tous les cinq ans, recommande les modifications à apporter à la loi ou aux procédures administratives afin d'améliorer la disponibilité des services en langue française en Ontario.

Comité permanent

8 (1) Rien dans la présente loi ne doit s'interpréter comme permettant de réduire la disponibilité de services en langue française existant le jour de son entrée en vigueur.

Restriction

(2) Rien dans la présente loi ne doit s'interpréter comme empêchant le gouvernement d'assurer des services en langue française là où le Conseil des services en langue française ou le Coordonnateur n'en ont pas recommandé ou examiné la prestation.

Idem

(3) Les poursuites et audiences devant les tribunaux ont lieu en français conformément à la *Loi sur l'organisation judiciaire* modifiée de temps à autre.

Tribunaux
R.S.O. 1980,
c. 223

9 La loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

10 Le titre abrégé de la loi est *Loi de 1982 sur les services en langue française en Ontario*.

Titre abrégé

An Act respecting
French Language Services
in Ontario

1st Reading

May 13th, 1982

2nd Reading

3rd Reading

MR. ROY

(Private Members' Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Ontario New Home Warranties Plan Act

MR. PHILIP

EXPLANATORY NOTE

The Bill would entitle a new home purchaser to hold back up to \$3,000 from the purchase price of the home to cover unfinished work.

BILL 108

1982

An Act to amend the Ontario New Home Warranties Plan Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ontario New Home Warranties Plan Act*, being chapter 350 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

17a.—(1) Every agreement between a vendor and a prospective owner shall be deemed to contain a provision entitling the prospective owner to pay up to \$3,000 of the purchase price to the prospective owner's solicitor, to be held in trust for the parties and to be,

s. 17a,
enacted
Holdback
to cover
unfinished
work

- (a) released to the vendor when all work on the home is completed; or
- (b) applied in payment or on account of damages incurred by the owner in respect of unfinished work on the home.

(2) The Corporation shall, upon the request of an owner or vendor, conciliate any dispute between the owner and the vendor with respect to the completion of work on the home and the disbursement of the holdback under subsection (1).

Conciliation
of disputes

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Ontario New Home Warranties Plan Amendment Act, 1982*.

Commence-
ment

Short title

An Act to amend the
Ontario New Home Warranties Plan Act

1st Reading

May 13th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1. Section 11 of the Act (in Part I) provides for spouse's allowances. The section is re-enacted to provide benefits similar to those provided by section 19 in Part II of the Act.

Section 4 of the Act states that Part I applies to a person who was a member of the Assembly on the 1st day of October, 1973 and a person who was a member before such date, but does not apply to a member who has elected to contribute under Part II.

The re-enacted section 11 is deemed to have come into force on the 12th day of July, 1977, the day that a similar amendment to section 19 (in Part II of the Act) came into force.

An Act to amend the Legislative Assembly Retirement Allowances Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 11 of the *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 11,
re-enacted

11.—(1) Where a former member who is receiving an allowance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to, Spouse's
allowance

- (a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and
- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.

(2) Where a member dies, Computation
of allowance

- (a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,
 - (i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or
 - (ii) an amount equal to,
 - A. 60 per cent of the allowance that the member had earned to the date of his or her death, and
 - B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 6 or 9, as the case may be, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to or for the child or children until such age is attained; or

- (b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to or for the child or children until such age is attained.

Option (3) The spouse,

- (a) of a person who had elected under section 6 or 9 to take a deferred allowance at age fifty-five but who died before attaining such age;
- (b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 6 or 9 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

- (c) 60 per cent of the allowance to which the person would have been entitled at that time; and
- (d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

Idem

(4) Where a person referred to in clause (3) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (3), reduced actuarially in accordance

SECTION 2. Clause 14 (a) of the Act (in Part II) defines "average annual remuneration". Subclause (ii) of the definition is amended to refer to thirty-six months instead of three fiscal years as the basis for calculations.

SECTION 3. Clause 32 (b) of the Act provides for prescribing tables by regulation. The amendment is complementary to the re-enactment of section 11.

with the tables prescribed by the regulations for the purposes of subsection (3), shall be paid to or for the child or children until such age is attained.

(5) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. Exception
for higher
education

2.—(1) Subclause 14 (a) (ii) of the said Act is amended, s. 14 (a) (ii),
amended

(a) by striking out “three fiscal years” in the fifth line and inserting in lieu thereof “thirty-six months”; and

(b) by striking out “years” where it occurs the second time in the fifth line and inserting in lieu thereof “months”.

(2) Subclause 14 (a) (ii) of the said Act, as amended by subsection (1), does not apply in respect of a person who became or who becomes entitled to an allowance under the said Act before the day this section comes into force. Application
of subclause
as amended

3. Clause 32 (b) of the said Act is amended by inserting after “subsection 9 (4)” in the second line “section 11”. s. 32 (b),
amended

4.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 12th day of July, 1977. Idem

5. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1982*. Short title

An Act to amend the Legislative
Assembly Retirement Allowances Act

1st Reading

May 14th, 1982

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Occupational Health and Safety Act

THE HON. R. H. RAMSAY
Minister of Labour

EXPLANATORY NOTES

SECTION 1. The proposed re-enactment of subsection 21 (3) clarifies the application of subsections 21 (1) and (2). The proposed subsection 21 (4) provides a method of resolving disputes as to whether or not an agent is a new biological or chemical agent or combination of such agents. The proposed subsection 21 (5) authorizes the Minister to make orders for the purposes of subsection 21 (3) and will have the effect of confirming an existing order made under subsection 21 (3).

SECTION 2. The proposed re-enactment of section 22 clarifies the "notice and comment" procedures to be followed with respect to the making of regulations related to designated substances. At present, section 22 applies only to regulations made under paragraph 14 of subsection 41 (2) of the Act. The re-enactment extends the application of section 22 to regulations made under both paragraphs 14 and 15 of subsection 41 (2).

SECTION 3. Self-explanatory.

BILL 110

1982

An Act to amend the Occupational Health and Safety Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 21 (3) of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 21 (3),
re-enacted

(3) Subsection (1) does not apply to,

Application

(a) agents, whether in combination or not, used in one or more work places in Ontario on or before the 1st day of October, 1979; or

(b) agents, whether in combination or not, mentioned in an inventory compiled or adopted by order of the Minister.

(4) Where a dispute arises as to the application of this section, a Director may investigate the matter and issue an order directing compliance therewith, and subsections 20 (4) to (7) and (9) to (12) apply, with all necessary modifications, to such order. Orders of
Director

(5) The Minister has, and shall be deemed always to have had, the power to compile or adopt, by order, one or more inventories for the purposes of subsection (3). Minister's
order

2. Section 22 of the said Act is repealed and the following substituted therefor: s. 22,
re-enacted

22.—(1) Where a regulation is to be made prescribing a biological, chemical or physical agent or combination thereof as a designated substance and prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal thereof, the Minister shall publish in *The Ontario Gazette* a notice, setting forth the proposed regulation and calling for comments, briefs or submissions thereon to be filed in writing Designation
of
substances

with the Minister within sixty days of the publication of the notice or within such longer period as the Minister may specify in the notice.

Making of
regulation

(2) Upon expiry of the period allowed for the filing of briefs, comments and submissions under subsection (1), the Lieutenant Governor in Council may make the regulation with or without amendments.

Publication
not required

(3) Where a regulation is made under subsection (2) with amendments, the regulation need not be republished under subsection (1) but shall be deposited with the chairman or vice-chairman of the Advisory Council on Occupational Health and Occupational Safety and shall not be filed under the *Regulations Act* until at least thirty days have elapsed after notice of the depositing is published in *The Ontario Gazette*.

R.S.O. 1980,
c. 446

Amending
regulations

(4) Subsections (1) to (3) apply to every regulation that amends or repeals a regulation that has been made in accordance with subsection (2).

Saving
R.S.O. 1980,
c. 321

3. A regulation to which section 22 of the *Occupational Health and Safety Act* applied, as that section read immediately prior to the coming into force of this Act, shall not be adjudged defective or invalid by reason of the fact that the regulation as made is not the same as the proposed regulation as published under clause (b) of that section.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1982*.

An Act to amend the
Occupational Health and Safety Act

1st Reading

May 14th, 1982

2nd Reading

3rd Reading

THE HON. R. H. RAMSAY
Minister of Labour

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to authorize the Raising of Money on the
Credit of the Consolidated Revenue Fund**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing moneys for the Consolidated Revenue Fund. The principal borrowings authorized by Ontario Loan Acts in recent years have been:

1. Borrowings from the Canada Pension Plan
2. The Ontario Treasury Bill program
3. CMHC Waste Control Loans
4. Federal-Provincial-Municipal Loan programs.

The amount of \$2.25 billion authorized by the Bill is intended to cover the following estimated borrowing requirements:

1. Canada Pension Plan borrowings
2. Teachers' Superannuation Fund borrowings.

The Bill provides that any unused borrowing authority will expire on September 30, 1983.

BILL 111

1982

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,250,000,000.

Loans up to
\$2,250,000,000

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

R.S.O. 1980,
cc. 494, 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1983.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act, 1982*.

Short title

An Act to authorize the Raising
of Money on the Credit of the
Consolidated Revenue Fund

1st Reading

May 14th, 1982

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

(Government Bill)

BILL 111

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

BILL 111

1982

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

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Loans up to
\$2,250,000,000

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c. 161

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Idem

R.S.O. 1980,
cc. 494, 348

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3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act, 1982*.

Short title

An Act to authorize the Raising
of Money on the Credit of the
Consolidated Revenue Fund

1st Reading

May 14th, 1982

2nd Reading

June 22nd, 1982

3rd Reading

June 22nd, 1982

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Tobacco Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

GENERAL

The Bill enacts proposals in the Treasurer's Budget,

- (a) to increase the rate of tax on tobacco products to 40 per cent of the taxable price per cigarette or gram of tobacco;
- (b) to increase the maximum compensation payable to wholesale dealers with respect to their collection and remittance of tax to \$2,000; and
- (c) to provide an allowance in respect of tobacco loss due to undetermined causes not greater than .1 per cent of the amount of tax collected and remitted by a designated collector.

In addition to these changes, an administrative change is proposed that will clarify the responsibility of the assignee of the book debts of a collector in respect of the tax portion of the book debts received.

SECTION 1.—Subsection 1. Subsection 2 (1) of the Act now reads as follows:

(1) *Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,*

- (a) *36 per cent of the taxable price per cigarette on every cigarette purchased by him;*
- (b) *30 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and*
- (c) *45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent,*

and until a taxable price per cigarette or taxable price per gram is prescribed by regulation by the Minister in accordance with this Act, every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,

- (d) *1.46 cents on every cigarette purchased by him; and*
- (e) *0.7 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him.*

The amendment increases the rate of tax payable by consumers of tobacco products to 40 per cent of the taxable price per cigarette or 40 per cent of the taxable price per gram of tobacco, other than cigarettes or cigars, as determined from time to time by the Minister.

Subsection 2. The Subsection proposed to be added provides that a person designated as agent of the Minister to collect and remit tax may not assign the tax portion of his book debts. Where an assignee of a collector's book debts collects those debts, he is required to collect and account for the tax portion of the debts.

BILL 112

1982

An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 (1) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 2, is repealed and the following substituted therefor: s. 2 (1),
re-enacted

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of, Tax on
consumers

- (a) 40 per cent of the taxable price per cigarette on every cigarette purchased by him;
- (b) 40 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and
- (c) 45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

- (2) Section 2 of the said Act is amended by adding thereto the following subsection: s. 2,
amended

(5) Where a person designated a collector under this Act or the regulations has made an assignment of his book debts, whether by way of specific or general assignment, or in any other manner disposes of his present or future right to collect his book debts, such assignment does not include that portion of the book debts that the collector, as agent for the Minister, charged the person to whom he sold the tobacco as tax under this Act, and any assignee or any other person who collects the book debts shall be deemed to be a collector under the Act and shall collect, remit and account under the Act and the regulations for the unassigned portion. Assignment
of book
debts

s. 8 (3) (a),
re-enacted

- 2.—**(1) Clause 8 (3) (a) of the said Act is repealed and the following substituted therefor:

(a) \$2,000; or

s. 8,
amended

- (2) Section 8 of the said Act is amended by adding thereto the following subsection:

Allowance
for loss
due to
shrinkage

(4) Where a collector designated under this Act or the regulations collects and transmits to the Treasurer the tax imposed by this Act, he may be paid an allowance in respect of loss of tobacco due to undetermined causes not greater than .1 per cent of the amount of tax so collected and transmitted and a collector may deduct such allowance from the amount otherwise to be transmitted to the Treasurer in accordance with this Act and the regulations.

Commence-
ment

- 3.—**(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

- (2) Subsection 2 (1) shall be deemed to have come into force on the 1st day of April, 1982.

Idem

- (3) Section 1 shall be deemed to have come into force on the 14th day of May, 1982.

Idem

- (4) Subsection 2 (2) comes into force on the 1st day of June, 1982.

Short title

- 4.** The short title of this Act is the *Tobacco Tax Amendment Act, 1982*.

SECTION 2.—Subsection 1. The re-enactment of clause 8 (3) (a) of the Act increases the maximum compensation payable to wholesale dealers in respect of their collection and remittance of tax from \$1,000 to \$2,000.

Subsection 2. The subsection proposed to be added provides for the payment of an allowance for tobacco loss due to undetermined causes not greater than .1 per cent of the amount of tax collected and remitted by a designated collector.

An Act to amend
the Tobacco Tax Act

1st Reading

May 14th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 112

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Tobacco Tax Act

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 112

1982

An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 (1) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 2, is repealed and the following substituted therefor: s. 2 (1),
re-enacted

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of, Tax on
consumers

- (a) 40 per cent of the taxable price per cigarette on every cigarette purchased by him;
- (b) 40 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and
- (c) 45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

- (2) Section 2 of the said Act is amended by adding thereto the following subsection: s. 2,
amended

(5) Where a person designated a collector under this Act or the regulations has made an assignment of his book debts, whether by way of specific or general assignment, or in any other manner disposes of his present or future right to collect his book debts, such assignment does not include that portion of the book debts that the collector, as agent for the Minister, charged the person to whom he sold the tobacco as tax under this Act, and any assignee or any other person who collects the book debts shall be deemed to be a collector under the Act and shall collect, remit and account under the Act and the regulations for the unassigned portion. Assignment
of book
debts

s. 8 (3) (a),
re-enacted

2.—(1) Clause 8 (3) (a) of the said Act is repealed and the following substituted therefor:

(a) \$2,000; or

s. 8,
amended

(2) Section 8 of the said Act is amended by adding thereto the following subsection:

Allowance
for loss
due to
shrinkage

(4) Where a collector designated under this Act or the regulations collects and transmits to the Treasurer the tax imposed by this Act, he may be paid an allowance in respect of loss of tobacco due to undetermined causes not greater than .1 per cent of the amount of tax so collected and transmitted and a collector may deduct such allowance from the amount otherwise to be transmitted to the Treasurer in accordance with this Act and the regulations.

Commence-
ment

3.—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) shall be deemed to have come into force on the 1st day of April, 1982.

Idem

(3) Section 1 shall be deemed to have come into force on the 14th day of May, 1982.

Idem

(4) Subsection 2 (2) comes into force on the 1st day of June, 1982.

Short title

4. The short title of this Act is the *Tobacco Tax Amendment Act, 1982*.

An Act to amend
the Tobacco Tax Act

1st Reading

May 14th, 1982

2nd Reading

June 22nd, 1982

3rd Reading

June 24th, 1982

THE HON. G. L. ASHE
Minister of Revenue

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Provincial Land Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals in the Treasurer's Budget increasing the rate of provincial land tax payable on pipe lines situate in territory without municipal organization and also replaces the provincial land tax now imposed on land of a telephone or telegraph company situate in territory without municipal organization with a new annual tax of an amount equal to 5 per cent of the gross receipts of such companies from business carried on in territory without municipal organization.

The Bill also provides for various housekeeping and administrative provisions, many of which are made to parallel provisions contained in the *Assessment Act*.

SECTION 1.—Subsection 1. Amends the definition of “land” to parallel the definition of that term contained in the *Assessment Act*. The subclauses to be repealed now read as follows:

(c) “land” includes,

(vi) the interest in land of a tenant or occupant,

(vii) the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

Subsection 2. The amendment to repeal the definition of “owner” contained in clause 1 (h) of the Act is consequential on later amendments contained in the Bill which are made to parallel provisions contained in the *Assessment Act*, whereby both an owner and tenant of land receive notices of assessment but, only the owner receives a bill for tax. The definition of “owner” is replaced with a definition of “tenant” by subsection 1 (3) of the Bill.

Clause 1 (h) now reads as follows:

1. In this Act,

(h) “owner” includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there had been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

The amendment also repeals the definition of “pipe line” and “pipe line company” contained in clauses 1 (j) and (k) of the Act. These definitions are re-inserted in a later provision which deals specifically with the assessment of pipe lines.

Subsection 3. The amendment adds a definition of “tenant” to parallel the definition of that term contained in the *Assessment Act*. The amendment is consequential on the repeal of the definition of “owner” provided for in subsection (2) of this section. A definition of “Treasurer” is added for the purposes of the re-enacted section 27 of the Act as set out in section 14 of the Bill.

SECTION 2. The proposed amendment adds a paragraph exempting the real property of telephone and telegraph companies from provincial land tax as a result of the proposal contained in the Treasurer's Budget to impose a tax on the

gross receipts of these companies. The tax on gross receipts is provided for in section 7 of the Bill.

SECTION 3. The amendment provides that notices of assessment are to be sent to both the owner and tenant of land as is provided for in the *Assessment Act*.

Subsection 5 (2) of the Act now reads:

- (2) *The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act and shall forthwith notify the owner of the land of the assessment or the amendment.*

SECTION 4. The amendment is consequential on the amendment made in section 3 of the Bill which provides that both the owner and tenant of land are to receive notices of assessment.

Section 6 of the Act now reads:

6. *The collector shall keep a Provincial Land Tax Register in which shall be entered the name and address of every owner of land to which this Act applies, the amount of the assessment of the land and such other particulars as the collector deems requisite.*

SECTION 5. The amendment removes the requirement that new owners and tenants must notify the collector of their interest in the land and provides that the collector may request information by way of a form in order to determine tax liability under the Act.

Section 9 of the Act now reads:

- 9.—(1) *Every person who becomes the owner of land situate in territory without municipal organization shall, within thirty days of becoming the owner of such land, notify the collector in writing giving his name and address, the name and address of the previous owner, a description of the land acquired, the purchase price paid where the land was purchased, or the rent paid where the land is rented, or the fee paid where the land is held under a licence.*
- (2) *Upon the erection or the placing upon, in, over, under or the affixing to land situate in territory without municipal organization of any building, structure, machinery, fixture or other improvement, the owner shall forthwith notify the collector in writing thereof.*
- (3) *The collector may at any time mail a form of return in the prescribed form to any owner of land to which this Act applies, and such owner shall complete and return it within thirty days from the date of mailing by the collector.*

SECTION 6. The amendment repeals the provisions relating to the assessment and taxation of pipe lines and provides that pipe lines will now be taxed at new rates which parallel those rates paid by pipe lines in municipalities.

Section 10 of the Act now reads:

- 10.—(1) *For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) *Notwithstanding any other provision of this Act but subject to subsection (3), a pipe line shall be assessed for taxation purposes at the following rates:*

Size of Pipe		Assessment per Foot of Length
3/4"	Nominal inside diameter	\$.07
1"	" " "09
1 1/4"	" " "11
1 1/2"	" " "13
2" and 2 1/2"	" " "17
3"	" " "46
4" and 4 1/2"	" " "55
5" and 5 5/8"	" " "83
6" and 6 5/8"	" " "98
8"	" " "	1.24
10"	" " "	1.55
12"	" " "	2.31

Size of Pipe		Assessment per Foot of Length
14"	Outside diameter	\$ 2.34
16"	" "	2.35
18"	" "	2.67
20"	" "	2.96
22"	" "	3.25
24"	" "	3.56
26"	" "	3.69
28"	" "	3.85
30"	" "	4.03
32"	" "	4.24
34"	" "	4.46
36"	" "	4.72

- (3) *A pipe line installed before 1940 shall be assessed for taxation at the rates set forth in subsection (2) but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipe line, with a maximum depreciation of 50 per cent.*
- (4) *A pipe line installed during or after 1940 shall be assessed for taxation at the rates set forth in subsection (2), with no allowance for depreciation.*
- (5) *A pipe line removed from one location and re-installed in another location shall, where depreciation is applicable, continue to be depreciated in accordance with subsection (3) as though remaining in its original location.*
- (6) *A pipe line that has been abandoned in any year ceases to be liable for the tax effective with the year next following the year in which the pipe line was abandoned.*
- (7) *Where a pipe line is located on, in, under, along or across a highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section.*
- (8) *Where a pipe line is placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such pipe line shall be assessed as if half of it were situate entirely within the former and half of it were situate entirely within the latter.*
- (9) *Land that is liable to the tax under this Act shall not have a lesser or greater assessment by reason of there being a pipe line located on, in, under, along or across it, nor shall it have a lesser or greater assessment by reason of the abandonment of the pipe line.*

SECTION 7. The amendment repeals the provisions of the Act relating to the assessment and taxation of telegraph and telephone lines and equipment situate in territory without municipal organization and provides for a new annual tax of an amount equal to 5 per cent of the total gross receipts of telephone and telegraph companies resulting from business carried on in territory without municipal organization. The new provision parallels provisions relating to the assessment and taxation of telephone and telegraph companies in municipalities. Provisions are also added to allow any telegraph or telephone company taxed under this section to dispute the amount of tax imposed by bringing an application to the Supreme Court of Ontario.

Section 11 of the Act now reads:

- 11.—(1) *For the purpose of the tax under this Act, a telephone line or part thereof, or a telegraph line or part thereof, situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) *Notwithstanding any other provision of this Act and subject to subsections (3) and (6), a telephone line or part thereof shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$135 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use on such 31st day of December, at the rate of \$7.50 per mile.*

- (3) Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, notwithstanding any other provision of this Act but subject to subsection (6), its telephone lines shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$50 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on such 31st day of December, at the rate of \$7.50 per mile.
- (4) In computing the length of telephone circuits placed or strung on poles or other structures or in conduits,

 - (a) a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included; and
 - (b) every circuit regardless of its length that connects two or more central exchange switchboards shall be included.
- (5) Notwithstanding any other provision of this Act but subject to subsection (6), a telegraph line or part thereof shall be assessed a sum equal to \$40 for every mile of length of one wire placed or strung on the poles or other structures or in conduits in use on the 31st day of December next preceding the year for which the tax is payable, and a sum equal to \$5 per mile for each additional wire so placed or strung on such 31st day of December.
- (6) Notwithstanding any other provision of this Act, the telephone and telegraph plant, poles and wires of a railway company that are used in whole or in part for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned.
- (7) In the computation of the length of telegraph wires and additional wires, the wires of all branch and loop lines that do not exceed twenty-five miles shall not be included.
- (8) In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed.
- (9) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such poles, structures, conduits or wires shall be assessed as if half of them were situate entirely within the former and half of them were situate entirely within the latter.
- (10) Every telegraph and telephone company doing business in Ontario shall, in respect of its wires and circuits in territory without municipal organization, on or before the 1st day of March in each year, transmit to the collector a statement in writing showing,

 - (a) the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organiza-

tion) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment; and

- (b) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment.

SECTION 8. The amendment clarifies that Provincial Land Tax is to be payable by the owner of the land and not by the tenant.

Subsection 21 (1) of the Act now reads:

- (1) *The tax under section 3 is payable annually at the appropriate prescribed rate upon the assessed value of the land.*

SECTION 9.—Subsection 1. The amendment incorporates a provision of the *Assessment Act* which defines “tenant” of Crown land.

Clause 22 (2) (c) of the Act now reads:

- (c) *“tenant” includes any person who uses land belonging to the Crown, as or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use.*

Subsection 2. The amendment clarifies that any person who is assessed with respect to Crown land is liable to pay the taxes so assessed and that the interest of such person is subject to the special lien on land for taxes provided for in section 26 of the Act.

SECTION 10. The first amendment clarifies that the tax bill mailed under section 23 of the Act is applicable to only the land tax imposed under section 3 of the Act. The second amendment is consequential on the repeal of the definition of “owner” by section 1 of the Bill.

Subsection 23 (1) of the Act now reads:

- (1) *Except as otherwise provided in this Act, the tax imposed by this Act shall be for the calendar year and becomes due and is payable on the 15th day of March in the year for which it is imposed, and a tax bill shall be mailed by the collector to every owner of land subject to taxation at his latest known address on or before the 15th day of February in the year for which the tax is payable.*

SECTION 11. The amendment increases from 5 to 10 per cent the penalty which is payable on unpaid tax and provides that the minimum penalty payable is \$6.

The amendment also provides that any unpaid tax and penalty will bear interest at a rate to be prescribed.

Section 24 of the Act now reads:

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 5 per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of April until the tax and penalty are paid, which interest shall be compounded annually on the 1st day of April of the year next following the date on which the tax was payable and on each 1st day of April thereafter that the tax or any part thereof remains unpaid, and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act.

SECTION 12.—Subsections 1 to 4. The amendments contained in subsections (1) to (4) are consequential on the amendment provided for in section 5 of the Bill.

Subsection 5. the amendment is consequential on the amendment contained in section 11 of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent.

SECTION 13. The repeal of subsection 26 (2) is consequential on the amendment contained in section 9 of the Bill. The amendment also incorporates into the Act various tax collection remedies which are provided for in various other Ontario taxing statutes.

Subsection 26 (2) of the Act now reads:

(2) The owner or any person entered in the register as the owner of any land is personally liable for all tax, interest and penalties imposed by this Act in respect of such land, and the collector may bring an action in his name of office for the recovery thereof in any court of competent jurisdiction.

SECTION 14. The amendment repeals section 27 of the Act which is redundant and enables the collector to collect unpaid tax by way of garnishment procedures.

The section to be repealed now reads:

27. In addition to the collection of arrears of tax by action as hereinbefore provided, the collector may distrain for the same and has the like powers in that regard as a collector of taxes for a municipal corporation.

SECTION 15. The amendment is consequential on amendments made in section 1 of the Bill.

Section 29 of the Act now reads:

29. A tax bill shall be deemed to be delivered to an owner of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, agent or representative.

SECTION 16. The amendment adds a provision enabling the collector to refund or pay taxes to a municipality where any part of the tax imposed on gross receipts of a telephone or telegraph company relate to telephones or other equipment situate on land that became part of a municipality in a year.

SECTION 17.—Subsection 1. The amendment clarifies that the remedy of forfeiture contained in the Act applies only where the land tax imposed by section 3 of the Act has been imposed and does not apply where a tax on gross receipts has been imposed.

Subsection 33 (1) of the Act now reads:

- (1) *Where any part of the tax imposed under this Act remains unpaid for a period of two years or more, the collector may cause to be filed on or before the 30th day of November in any year in the proper land registry office a caution in the prescribed form, and thereupon he shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the proper land registry office to be the owner of the land in respect of which the default has been made and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax, interest, penalties and costs due and payable under this Act is paid on or before the 30th day of November in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of December in the last-mentioned year by a certificate under the hand of the Minister or the Deputy Minister, and to the amount so due and payable there shall in every case be added and paid as costs the prescribed sum.*

Subsection 2. The amendment is consequential on the amendments made in section 1 of the Bill to the definitions of "owner" and "tenant".

Subsection 33 (2) of the Act now reads:

- (2) *Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may send by registered mail a notice mentioned in subsection (1) to the person entered in the register as the owner of the land, and the sending of such notice shall be deemed to be compliance with the provisions of subsection (1).*

Subsection 3. The amendment reflects amendments made to the *Registry Act* and the *Land Titles Act* which no longer require entries to be made in red ink.

SECTION 18. The amendment is consequential on the provision contained in section 1 of the Bill which repeals the definition of "owner".

SECTION 19.—Subsections 1 and 2. The amendments make various housekeeping amendments and empower the Lieutenant Governor in Council to pass regulations defining any term under the Act, providing for the rate and payment of interest and exempting from the tax imposed on the gross receipts of the telephone and telegraph companies, those receipts resulting from business carried on on designated lands.

Subsection 3. The new subsection 38 (2) of the Act empowers the Minister to pass regulations prescribing any forms required under the Act. The new subsection 38 (3) of the Act provides that any regulation passed under the Act may be made retroactive.

SECTION 20. Provides that the sections of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent will become effective on April 1, 1983. All other provisions of the Bill will come into force on the 1st day of January, 1983.

BILL 113

1982

An Act to amend the Provincial Land Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclauses 1 (c) (vi) and (vii) of the *Provincial Land Tax Act*, ^{s. 1 (c)} being chapter 399 of the Revised Statutes of Ontario, 1980, ^{(vi, vii),} are repealed.
- (2) Clauses 1 (h), (j) and (k) of the said Act are repealed. ^{s. 1 (h, j, k),}
^{repealed}
- (3) Section 1 of the said Act is amended by adding thereto the ^{s. 1,} following clauses: ^{amended}
 - (p) “tenant” includes an occupant and the person in possession other than the owner;
 - (q) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.
2. Subsection 3 (1) of the said Act is amended by adding thereto the ^{s. 3 (1),} following paragraph: ^{amended}
 19. All the machinery, plant and appliances, wherever ^{Certain} situate, and all structures placed on, over, under ^{property of} or ^{telephone and} affixed to any highway, lane or other public communication, public place or water so long as such machinery, ^{telegraph} plant, appliances or structures are used by any telephone or telegraph company in connection with and as ^{companies} part of the operations of its telephone or telegraph business.
3. Subsection 5 (2) of the said Act is repealed and the following ^{s. 5 (2),} substituted therefor: ^{re-enacted}
 - (2) The collector may at any time assess or amend the assess- ^{Assessment} ment of any land liable to assessment and taxation under this Act ^{or amendment} of assessment

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,
amended

4. Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,
re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),
re-enacted;
s. 10 (4),
repealed

- 6.—(1) Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

- (1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a trans- Disputes
mission pipe line shall, on the application of any interested party,
be decided by the Ontario Energy Board and its decision is final.

(3) Notwithstanding any other provision of this Act, a pipe Assessment
line shall be assessed for taxation purposes at the following rates: of pipe
line

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1".....	Nominal Inside Diameter.....	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ "...	" " ".....	1.45
2" and $2\frac{1}{2}$ "....	" " ".....	1.70
3".....	" " ".....	2.20
4" and $4\frac{1}{2}$ "....	" " ".....	2.70
5" and $5\frac{5}{8}$ "....	" " ".....	3.20
6" and $6\frac{5}{8}$ "....	" " ".....	3.70
8".....	" " ".....	5.90
10".....	" " ".....	6.80
12".....	" " ".....	8.55
14".....	Outside Diameter.....	9.20
16".....	" ".....	10.35
18".....	" ".....	11.45
20".....	" ".....	12.45
22".....	" ".....	13.75
24".....	" ".....	14.80
26".....	" ".....	15.70
28".....	" ".....	16.75
30".....	" ".....	17.70
32".....	" ".....	18.65
34".....	" ".....	19.50
36".....	" ".....	20.35
38".....	" ".....	21.35

FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1".....	Nominal Inside Diameter.....	\$.90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ "...	" " ".....	1.09
2" and $2\frac{1}{2}$ "....	" " ".....	1.31
3".....	" " ".....	1.69
4" and $4\frac{1}{2}$ "....	" " ".....	2.10
5" and $5\frac{5}{8}$ "....	" " ".....	2.47
6" and $6\frac{5}{8}$ "....	" " ".....	2.89
8".....	" " ".....	4.65
10".....	" " ".....	5.44
12".....	" " ".....	6.90

GAS TRANSMISSION PIPE LINE

3/4" to 1".....	Nominal Inside Diameter.....	\$ 1.20
1 1/4" to 1 1/2"....	" " "	1.45
2" and 2 1/2"....	" " "	1.75
3"	" " "	2.25
4" and 4 1/2"....	" " "	2.80
5" and 5 5/8"....	" " "	3.30
6" and 6 5/8"....	" " "	3.85
8"	" " "	6.20
10"	" " "	7.25
12"	" " "	9.20
14"	Outside Diameter	10.00
16"	" "	14.40
18"	" "	12.75
20"	" "	14.00
22"	" "	15.65
24"	" "	17.00
26"	" "	18.25
28"	" "	19.70
30"	" "	21.10
32"	" "	22.50
34"	" "	23.80
36"	" "	25.15
38"	" "	26.70

s. 10,
amended

- (2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of
assessment
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line
deemed to
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Review
of rates

(12) The rates set out in subsection (3) shall be reviewed by the Minister in the year 1986 and every third year thereafter, and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3).

s. 11,
re-enacted

7. Section 11 of the said Act is repealed and the following substituted therefor:

Returns by
telegraph and
telephone
companies

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall,

on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted. Apportionment of gross receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls. What constitutes gross receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1). Rate of tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable. Tax bill

(6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed. Idem

(7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company. Collector not bound by statements

(8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of Application to Supreme Court

Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.

How action
instituted

(9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.

Service

(10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.

Matter
deemed
action

(11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.

s. 21 (1),
amended

8. Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".

s. 22 (2) (c),
amended

9.—(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".

s. 22,
amended

(2) Section 22 of the said Act is amended by adding thereto the following subsection:

Persons liable
to tax

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26.

s. 23 (1),
amended

10. Subsection 23 (1) of the said Act is amended by striking out "by this Act" in the second line and inserting in lieu thereof "under section 3" and by striking out "owner of land subject to taxation" in the fifth line and inserting in lieu thereof "person liable to pay such tax".

s. 24,
re-enacted

11. Section 24 of the said Act is repealed and the following substituted therefor:

Penalty and
interest on
unpaid tax

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added

thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act.

- 12.**—(1) Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3),
amended
- (2) Subsection 25 (4) of the said Act is repealed. s. 25 (4),
repealed
- (3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5),
amended
- (4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6),
amended
- (5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7),
re-enacted
- (7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and
interest on
unpaid tax
- 13.** Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2),
re-enacted;
s. 26 (3, 4),
enacted
- (2) Upon default of payment of any tax payable under this Act, Recovery
of tax
- (a) the collector may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and

the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance
to be proved
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies
for recovery
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

s. 27,
re-enacted

14. Section 27 of the said Act is repealed and the following substituted therefor:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a person liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service on
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally. Garnishment of wages
R.S.O. 1980,
c. 526

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. Failure to remit

15. Section 29 of the said Act is repealed and the following substituted therefor: s. 29,
re-enacted

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. Delivery of tax bills

16. Section 31 of the said Act is amended by adding thereto the following subsection: s. 31,
amended

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year. Refunds of tax on gross receipts

17.—(1) Subsection 33 (1) of the said Act is amended by inserting after "under" in the first line and in the eleventh line "section 3 of". s. 33 (1),
amended

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor: s. 33 (2),
re-enacted

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period Idem

of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),
amended

- (3) Subsection 33 (8) of the said Act is amended by striking out "in red ink" in the fourth line.

s. 35,
amended

- 18.** Section 35 of the said Act is amended by striking out "owner" in the first line and inserting in lieu thereof "person".

s. 38
(a, d, e),
re-enacted

- 19.—(1)** Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(d) for the purposes of subsection 10 (12), amending the table of rates set out in subsection 10 (3);

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,
amended

- (2) Section 38 of the said Act is amended by adding thereto the following clauses:

(h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;

(i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;

(j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

s. 38,
amended

- (3) The said section 38 is further amended by adding thereto the following subsections:

- (2) The Minister may make regulations,

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

(b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in

Regulations
by Minister

the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to Retroactivity a period before it was filed.

20.—(1) This Act, except section 11 and subsection 12 (5), comes into Commence- force on the 1st day of January, 1983. ment

(2) Section 11 and subsection 12 (5) come into force on the 1st Idem day of April, 1983.

21. The short title of this Act is the *Provincial Land Tax Amendment* Short title Act, 1982.

An Act to amend the
Provincial Land Tax Act

1st Reading

May 14th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(*Government Bill*)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Provincial Land Tax Act

THE HON. G. L. ASHE
Minister of Revenue

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals in the Treasurer's Budget increasing the rate of provincial land tax payable on pipe lines situate in territory without municipal organization and also replaces the provincial land tax now imposed on land of a telephone or telegraph company situate in territory without municipal organization with a new annual tax of an amount equal to 5 per cent of the gross receipts of such companies from business carried on in territory without municipal organization.

The Bill also provides for various housekeeping and administrative provisions, many of which are made to parallel provisions contained in the *Assessment Act*.

SECTION 1.—Subsection 1. Amends the definition of “land” to parallel the definition of that term contained in the *Assessment Act*. The subclauses to be repealed now read as follows:

(c) “land” includes,

(vi) the interest in land of a tenant or occupant,

(vii) the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

Subsection 2. The amendment to repeal the definition of “owner” contained in clause 1 (h) of the Act is consequential on later amendments contained in the Bill which are made to parallel provisions contained in the *Assessment Act*, whereby both an owner and tenant of land receive notices of assessment but, only the owner receives a bill for tax. The definition of “owner” is replaced with a definition of “tenant” by subsection 1 (3) of the Bill.

Clause 1 (h) now reads as follows:

1. In this Act,

(h) “owner” includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there had been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

The amendment also repeals the definition of “pipe line” and “pipe line company” contained in clauses 1 (j) and (k) of the Act. These definitions are re-inserted in a later provision which deals specifically with the assessment of pipe lines.

Subsection 3. The amendment adds a definition of “tenant” to parallel the definition of that term contained in the *Assessment Act*. The amendment is consequential on the repeal of the definition of “owner” provided for in subsection (2) of this section. A definition of “Treasurer” is added for the purposes of the re-enacted section 27 of the Act as set out in section 14 of the Bill.

SECTION 2. The proposed amendment adds a paragraph exempting the real property of telephone and telegraph companies from provincial land tax as a result of the proposal contained in the Treasurer's Budget to impose a tax on the

gross receipts of these companies. The tax on gross receipts is provided for in section 7 of the Bill.

SECTION 3. The amendment provides that notices of assessment are to be sent to both the owner and tenant of land as is provided for in the *Assessment Act*.

Subsection 5 (2) of the Act now reads:

- (2) *The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act and shall forthwith notify the owner of the land of the assessment or the amendment.*

SECTION 4. The amendment is consequential on the amendment made in section 3 of the Bill which provides that both the owner and tenant of land are to receive notices of assessment.

Section 6 of the Act now reads:

6. *The collector shall keep a Provincial Land Tax Register in which shall be entered the name and address of every owner of land to which this Act applies, the amount of the assessment of the land and such other particulars as the collector deems requisite.*

SECTION 5. The amendment removes the requirement that new owners and tenants must notify the collector of their interest in the land and provides that the collector may request information by way of a form in order to determine tax liability under the Act.

Section 9 of the Act now reads:

- 9.—(1) *Every person who becomes the owner of land situate in territory without municipal organization shall, within thirty days of becoming the owner of such land, notify the collector in writing giving his name and address, the name and address of the previous owner, a description of the land acquired, the purchase price paid where the land was purchased, or the rent paid where the land is rented, or the fee paid where the land is held under a licence.*
- (2) *Upon the erection or the placing upon, in, over, under or the affixing to land situate in territory without municipal organization of any building, structure, machinery, fixture or other improvement, the owner shall forthwith notify the collector in writing thereof.*
- (3) *The collector may at any time mail a form of return in the prescribed form to any owner of land to which this Act applies, and such owner shall complete and return it within thirty days from the date of mailing by the collector.*

SECTION 6. The amendment repeals the provisions relating to the assessment and taxation of pipe lines and provides that pipe lines will now be taxed at new rates which parallel those rates paid by pipe lines in municipalities.

Section 10 of the Act now reads:

- 10.—(1) *For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) *Notwithstanding any other provision of this Act but subject to subsection (3), a pipe line shall be assessed for taxation purposes at the following rates:*

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ "	Nominal inside diameter	\$.07
1"	" " "	.09
$1\frac{1}{4}$ "	" " "	.11
$1\frac{1}{2}$ "	" " "	.13
2" and $2\frac{1}{2}$ "	" " "	.17
3"	" " "	.46
4" and $4\frac{1}{2}$ "	" " "	.55
5" and $5\frac{5}{8}$ "	" " "	.83
6" and $6\frac{5}{8}$ "	" " "	.98
8"	" " "	1.24
10"	" " "	1.55
12"	" " "	2.31

Size of Pipe		Assessment per Foot of Length
14"	Outside diameter	\$ 2.34
16"	" " "	2.35
18"	" " "	2.67
20"	" " "	2.96
22"	" " "	3.25
24"	" " "	3.56
26"	" " "	3.69
28"	" " "	3.85
30"	" " "	4.03
32"	" " "	4.24
34"	" " "	4.46
36"	" " "	4.72

- (3) *A pipe line installed before 1940 shall be assessed for taxation at the rates set forth in subsection (2) but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipe line, with a maximum depreciation of 50 per cent.*
- (4) *A pipe line installed during or after 1940 shall be assessed for taxation at the rates set forth in subsection (2), with no allowance for depreciation.*
- (5) *A pipe line removed from one location and re-installed in another location shall, where depreciation is applicable, continue to be depreciated in accordance with subsection (3) as though remaining in its original location.*
- (6) *A pipe line that has been abandoned in any year ceases to be liable for the tax effective with the year next following the year in which the pipe line was abandoned.*
- (7) *Where a pipe line is located on, in, under, along or across a highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section.*
- (8) *Where a pipe line is placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such pipe line shall be assessed as if half of it were situate entirely within the former and half of it were situate entirely within the latter.*
- (9) *Land that is liable to the tax under this Act shall not have a lesser or greater assessment by reason of there being a pipe line located on, in, under, along or across it, nor shall it have a lesser or greater assessment by reason of the abandonment of the pipe line.*

SECTION 7. The amendment repeals the provisions of the Act relating to the assessment and taxation of telegraph and telephone lines and equipment situate in territory without municipal organization and provides for a new annual tax of an amount equal to 5 per cent of the total gross receipts of telephone and telegraph companies resulting from business carried on in territory without municipal organization. The new provision parallels provisions relating to the assessment and taxation of telephone and telegraph companies in municipalities. Provisions are also added to allow any telegraph or telephone company taxed under this section to dispute the amount of tax imposed by bringing an application to the Supreme Court of Ontario.

Section 11 of the Act now reads:

- 11.—(1) *For the purpose of the tax under this Act, a telephone line or part thereof, or a telegraph line or part thereof, situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) *Notwithstanding any other provision of this Act and subject to subsections (3) and (6), a telephone line or part thereof shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$135 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use on such 31st day of December, at the rate of \$7.50 per mile.*

- (3) *Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, notwithstanding any other provision of this Act but subject to subsection (6), its telephone lines shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$50 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on such 31st day of December, at the rate of \$7.50 per mile.*
- (4) *In computing the length of telephone circuits placed or strung on poles or other structures or in conduits,*
- (a) *a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included; and*
 - (b) *every circuit regardless of its length that connects two or more central exchange switchboards shall be included.*
- (5) *Notwithstanding any other provision of this Act but subject to subsection (6), a telegraph line or part thereof shall be assessed a sum equal to \$40 for every mile of length of one wire placed or strung on the poles or other structures or in conduits in use on the 31st day of December next preceding the year for which the tax is payable, and a sum equal to \$5 per mile for each additional wire so placed or strung on such 31st day of December.*
- (6) *Notwithstanding any other provision of this Act, the telephone and telegraph plant, poles and wires of a railway company that are used in whole or in part for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned.*
- (7) *In the computation of the length of telegraph wires and additional wires, the wires of all branch and loop lines that do not exceed twenty-five miles shall not be included.*
- (8) *In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed.*
- (9) *Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such poles, structures, conduits or wires shall be assessed as if half of them were situate entirely within the former and half of them were situate entirely within the latter.*
- (10) *Every telegraph and telephone company doing business in Ontario shall, in respect of its wires and circuits in territory without municipal organization, on or before the 1st day of March in each year, transmit to the collector a statement in writing showing,*
- (a) *the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organiza-*

tion) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment; and

- (b) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment.

SECTION 8. The amendment clarifies that Provincial Land Tax is to be payable by the owner of the land and not by the tenant.

Subsection 21 (1) of the Act now reads:

- (1) *The tax under section 3 is payable annually at the appropriate prescribed rate upon the assessed value of the land.*

SECTION 9.—Subsection 1. The amendment incorporates a provision of the Assessment Act which defines “tenant” of Crown land.

Clause 22 (2) (c) of the Act now reads:

- (c) *“tenant” includes any person who uses land belonging to the Crown, as or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use.*

Subsection 2. The amendment clarifies that any person who is assessed with respect to Crown land is liable to pay the taxes so assessed and that the interest of such person is subject to the special lien on land for taxes provided for in section 26 of the Act.

SECTION 10. The first amendment clarifies that the tax bill mailed under section 23 of the Act is applicable to only the land tax imposed under section 3 of the Act. The second amendment is consequential on the repeal of the definition of “owner” by section 1 of the Bill.

Subsection 23 (1) of the Act now reads:

- (1) *Except as otherwise provided in this Act, the tax imposed by this Act shall be for the calendar year and becomes due and is payable on the 15th day of March in the year for which it is imposed, and a tax bill shall be mailed by the collector to every owner of land subject to taxation at his latest known address on or before the 15th day of February in the year for which the tax is payable.*

SECTION 11. The amendment increases from 5 to 10 per cent the penalty which is payable on unpaid tax and provides that the minimum penalty payable is \$6.

The amendment also provides that any unpaid tax and penalty will bear interest at a rate to be prescribed.

Section 24 of the Act now reads:

24. *Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 5 per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of April until the tax and penalty are paid, which interest shall be compounded annually on the 1st day of April of the year next following the date on which the tax was payable and on each 1st day of April thereafter that the tax or any part thereof remains unpaid, and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act.*

SECTION 12.—Subsections 1 to 4. The amendments contained in subsections (1) to (4) are consequential on the amendment provided for in section 5 of the Bill.

Subsection 5. the amendment is consequential on the amendment contained in section 11 of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent.

SECTION 13. The repeal of subsection 26 (2) is consequential on the amendment contained in section 9 of the Bill. The amendment also incorporates into the Act various tax collection remedies which are provided for in various other Ontario taxing statutes.

Subsection 26 (2) of the Act now reads:

- (2) *The owner or any person entered in the register as the owner of any land is personally liable for all tax, interest and penalties imposed by this Act in respect of such land, and the collector may bring an action in his name of office for the recovery thereof in any court of competent jurisdiction.*

SECTION 14. The amendment repeals section 27 of the Act which is redundant and enables the collector to collect unpaid tax by way of garnishment procedures.

The section to be repealed now reads:

27. *In addition to the collection of arrears of tax by action as hereinbefore provided, the collector may distrain for the same and has the like powers in that regard as a collector of taxes for a municipal corporation.*

SECTION 15. The amendment is consequential on amendments made in section 1 of the Bill.

Section 29 of the Act now reads:

29. *A tax bill shall be deemed to be delivered to an owner of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, agent or representative.*

SECTION 16. The amendment adds a provision enabling the collector to refund or pay taxes to a municipality where any part of the tax imposed on gross receipts of a telephone or telegraph company relate to telephones or other equipment situate on land that became part of a municipality in a year.

SECTION 17.—Subsection 1. The amendment clarifies that the remedy of forfeiture contained in the Act applies only where the land tax imposed by section 3 of the Act has been imposed and does not apply where a tax on gross receipts has been imposed.

Subsection 33 (1) of the Act now reads:

- (1) *Where any part of the tax imposed under this Act remains unpaid for a period of two years or more, the collector may cause to be filed on or before the 30th day of November in any year in the proper land registry office a caution in the prescribed form, and thereupon he shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the proper land registry office to be the owner of the land in respect of which the default has been made and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax, interest, penalties and costs due and payable under this Act is paid on or before the 30th day of November in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of December in the last-mentioned year by a certificate under the hand of the Minister or the Deputy Minister, and to the amount so due and payable there shall in every case be added and paid as costs the prescribed sum.*

Subsection 2. The amendment is consequential on the amendments made in section 1 of the Bill to the definitions of "owner" and "tenant".

Subsection 33 (2) of the Act now reads:

- (2) *Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may send by registered mail a notice mentioned in subsection (1) to the person entered in the register as the owner of the land, and the sending of such notice shall be deemed to be compliance with the provisions of subsection (1).*

Subsection 3. The amendment reflects amendments made to the *Registry Act* and the *Land Titles Act* which no longer require entries to be made in red ink.

SECTION 18. The amendment is consequential on the provision contained in section 1 of the Bill which repeals the definition of "owner".

SECTION 19.—Subsections 1 and 2. The amendments make various housekeeping amendments and empower the Lieutenant Governor in Council to pass regulations defining any term under the Act, providing for the rate and payment of interest and exempting from the tax imposed on the gross receipts of the telephone and telegraph companies, those receipts resulting from business carried on on designated lands.

Subsection 3. The new subsection 38 (2) of the Act empowers the Minister to pass regulations prescribing any forms required under the Act. The new subsection 38 (3) of the Act provides that any regulation passed under the Act may be made retroactive.

SECTION 20. Provides that the sections of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent will become effective on April 1, 1983. All other provisions of the Bill will come into force on the 1st day of January, 1983.

BILL 113

1982

An Act to amend the Provincial Land Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclauses 1 (c) (vi) and (vii) of the *Provincial Land Tax Act*, s. 1 (c),
being chapter 399 of the Revised Statutes of Ontario, 1980, repealed
are repealed.
- (2) Clauses 1 (h), (j) and (k) of the said Act are repealed. s. 1 (h, j, k),
repealed
- (3) Section 1 of the said Act is amended by adding thereto the s. 1,
following clauses: amended
 - (p) “tenant” includes an occupant and the person in possession other than the owner;
 - (q) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.
2. Subsection 3 (1) of the said Act is amended by adding thereto the s. 3 (1),
following paragraph: amended
 19. All the machinery, plant and appliances, wherever Certain
situate, and all structures placed on, over, under or property of
affixed to any highway, lane or other public communication, public place or water so long as such machinery, telephone and
plant, appliances or structures are used by any telegraph companies
phone or telegraph company in connection with and as
part of the operations of its telephone or telegraph business.
3. Subsection 5 (2) of the said Act is repealed and the following s. 5 (2),
substituted therefor: re-enacted
 - (2) The collector may at any time assess or amend the assess- Assessment
ment of any land liable to assessment and taxation under this Act or amendment
of assessment

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,
amended

4. Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,
re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),
re-enacted;
s. 10 (4),
repealed

- 6.—(1) Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

- (1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a trans- Disputes
mission pipe line shall, on the application of any interested party,
be decided by the Ontario Energy Board and its decision is final.

(3) Notwithstanding any other provision of this Act, a pipe Assessment
line shall be assessed for taxation purposes at the following rates: of pipe
line

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1"	Nominal Inside Diameter	\$ 1.20
1 1/4" to 1 1/2"	" " "	1.45
2" and 2 1/2"	" " "	1.70
3"	" " "	2.20
4" and 4 1/2"	" " "	2.70
5" and 5 5/8"	" " "	3.20
6" and 6 5/8"	" " "	3.70
8"	" " "	5.90
10"	" " "	6.80
12"	" " "	8.55
14"	Outside Diameter	9.20
16"	" "	10.35
18"	" "	11.45
20"	" "	12.45
22"	" "	13.75
24"	" "	14.80
26"	" "	15.70
28"	" "	16.75
30"	" "	17.70
32"	" "	18.65
34"	" "	19.50
36"	" "	20.35
38"	" "	21.35

FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1"	Nominal Inside Diameter	\$.90
1 1/4" to 1 1/2"	" " "	1.09
2" and 2 1/2"	" " "	1.31
3"	" " "	1.69
4" and 4 1/2"	" " "	2.10
5" and 5 5/8"	" " "	2.47
6" and 6 5/8"	" " "	2.89
8"	" " "	4.65
10"	" " "	5.44
12"	" " "	6.90

GAS TRANSMISSION PIPE LINE

3/4" to 1"	Nominal Inside Diameter	\$ 1.20
1 1/4" to 1 1/2"	" " "	1.45
2" and 2 1/2"	" " "	1.75
3"	" " "	2.25
4" and 4 1/2"	" " "	2.80
5" and 5 5/8"	" " "	3.30
6" and 6 5/8"	" " "	3.85
8"	" " "	6.20
10"	" " "	7.25
12"	" " "	9.20
14"	Outside Diameter	10.00
16"	" "	11.40
18"	" "	12.75
20"	" "	14.00
22"	" "	15.65
24"	" "	17.00
26"	" "	18.25
28"	" "	19.70
30"	" "	21.10
32"	" "	22.50
34"	" "	23.80
36"	" "	25.15
38"	" "	26.70
42"	" "	29.50

s. 10,
amended

- (2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of
assessment
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line
deemed to
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Depreciation
of pipe
lines

(12) A pipe line installed before 1970 shall be assessed for taxation at the rates set forth in subsection (3) but shall be depreciated up to the year 1970 at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent, and no allowance of depreciation shall be made with respect to a pipe line that is installed during or after 1970.

Review of
rates, etc.

(13) The rates set out in subsection (3) and the year up to which depreciation is allowed set out in subsection (12) shall be

reviewed by the Minister in 1986 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3) or change the year up to which depreciation is allowed set out in subsection (12).

(14) Notwithstanding any provision of this section to the contrary, the Lieutenant Governor in Council may, where two or more pipe lines occupy the same right-of-way, by regulation, designate the second and subsequent pipe lines and, by regulation, prescribe the percentage of the rates set out in subsection (3) at which the second and subsequent pipe lines are assessable and taxable and the percentages of rates as so prescribed shall apply until such percentages of rates are altered.

Where two or more pipe lines occupy same right-of-way

7. Section 11 of the said Act is repealed and the following substituted therefor: s. 11, re-enacted

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall, on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

Returns by telegraph and telephone companies

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted.

Apportionment of gross receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls.

What constitutes gross receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1).

Rate of tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in

the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable.

Idem

(6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed.

Collector
not bound by
statements

(7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company.

Application
to Supreme
Court

(8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.

How action
instituted

(9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.

Service

(10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.

Matter
deemed
action

(11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.

s. 21 (1),
amended

8. Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".

s. 22 (2) (c),
amended

9.—(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".

s. 22,
amended

(2) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26. Persons liable to tax

10. Subsection 23 (1) of the said Act is amended by striking out “by this Act” in the second line and inserting in lieu thereof “under section 3” and by striking out “owner of land subject to taxation” in the fifth line and inserting in lieu thereof “person liable to pay such tax”. s. 23 (1), amended

11. Section 24 of the said Act is repealed and the following substituted therefor: s. 24, re-enacted

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

12.—(1) Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3), amended

(2) Subsection 25 (4) of the said Act is repealed. s. 25 (4), repealed

(3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5), amended

(4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6), amended

(5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7), re-enacted

(7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

13. Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2), re-enacted;
s. 26 (3, 4), enacted

Recovery
of tax

(2) Upon default of payment of any tax payable under this Act,

- (a) the collector may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance
to be proved
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies
for recovery
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

s. 27,
re-enacted

14. Section 27 of the said Act is repealed and the following substituted therefor:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a person Liability of debtor liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

(4) Where a person who is or is about to become indebted or Service on garnishee liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become in- Idem debted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally. Garnishment of wages R.S.O. 1980, c. 526

(7) Where any person, without reasonable excuse, has failed Failure to remit to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

15. Section 29 of the said Act is repealed and the following substituted s. 29, re-enacted therefor:

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. Delivery of tax bills

16. Section 31 of the said Act is amended by adding thereto the following subsection: s. 31, amended

Refunds of
tax on gross
receipts

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year.

s. 33 (1),
amended

17.—(1) Subsection 33 (1) of the said Act is amended by inserting after “under” in the first line and in the eleventh line “section 3 of”.

s. 33 (2),
re-enacted

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),
amended

(3) Subsection 33 (8) of the said Act is amended by striking out “in red ink” in the fourth line.

s. 35,
amended

18. Section 35 of the said Act is amended by striking out “owner” in the first line and inserting in lieu thereof “person”.

s. 38
(a, d, e),
re-enacted

19.—(1) Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(d) for the purposes of subsection 10 (13), amending the table of rates set out in subsection 10 (3) and changing the year up to which depreciation shall be allowed set out in subsection 10 (12);

(da) for the purposes of subsection 10 (14), designating second and subsequent pipe lines and prescribing the percentage of the rates set out in subsection 10 (3) at which second and subsequent pipe lines shall be assessed and taxed;

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,
amended

(2) Section 38 of the said Act is amended by adding thereto the following clauses:

(h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;

(i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;

(j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

(3) The said section 38 is further amended by adding thereto the following subsections: s. 38,
amended

(2) The Minister may make regulations, Regulations
by Minister

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

(b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. Retroactivity

20.—(1) This Act, except section 11 and subsection 12 (5), comes into force on the 1st day of January, 1983. Commence-
ment

(2) Section 11 and subsection 12 (5) come into force on the 1st day of April, 1983. Idem

21. The short title of this Act is the *Provincial Land Tax Amendment Act, 1982*. Short title

An Act to amend the
Provincial Land Tax Act

1st Reading

May 14th, 1982

2nd Reading

June 22nd, 1982

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 113

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Provincial Land Tax Act

**THE HON. G. L. ASHE
Minister of Revenue**

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 113

1982

An Act to amend the Provincial Land Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclauses 1 (c) (vi) and (vii) of the *Provincial Land Tax Act*, s. 1 (c) (vi, vii), being chapter 399 of the Revised Statutes of Ontario, 1980, repealed are repealed.

(2) Clauses 1 (h), (j) and (k) of the said Act are repealed. s. 1 (h, j, k), repealed

(3) Section 1 of the said Act is amended by adding thereto the following clauses: s. 1, amended

(p) “tenant” includes an occupant and the person in possession other than the owner;

(q) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.

2. Subsection 3 (1) of the said Act is amended by adding thereto the following paragraph: s. 3 (1), amended

19. All the machinery, plant and appliances, wherever situate, and all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water so long as such machinery, plant, appliances or structures are used by any telephone or telegraph company in connection with and as part of the operations of its telephone or telegraph business. Certain property of telephone and telegraph companies

3. Subsection 5 (2) of the said Act is repealed and the following substituted therefor: s. 5 (2), re-enacted

(2) The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act. Assessment or amendment of assessment

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,
amended

- 4.** Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,
re-enacted

- 5.** Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),
re-enacted;
s. 10 (4),
repealed

- 6.—(1)** Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

- (1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a trans-^{Disputes} mission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final.

(3) Notwithstanding any other provision of this Act, a pipe^{Assessment} line shall be assessed for taxation purposes at the following rates: ^{of pipe} line

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1".....	Nominal Inside Diameter.....	\$ 1.20
1 1/4" to 1 1/2"...	" " ".....	1.45
2" and 2 1/2"....	" " ".....	1.70
3".....	" " ".....	2.20
4" and 4 1/2"....	" " ".....	2.70
5" and 5 1/4"....	" " ".....	3.20
6" and 6 1/8"....	" " ".....	3.70
8".....	" " ".....	5.90
10".....	" " ".....	6.80
12".....	" " ".....	8.55
14".....	Outside Diameter.....	9.20
16".....	" ".....	10.35
18".....	" ".....	11.45
20".....	" ".....	12.45
22".....	" ".....	13.75
24".....	" ".....	14.80
26".....	" ".....	15.70
28".....	" ".....	16.75
30".....	" ".....	17.70
32".....	" ".....	18.65
34".....	" ".....	19.50
36".....	" ".....	20.35
38".....	" ".....	21.35

FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
3/4" to 1".....	Nominal Inside Diameter.....	\$.90
1 1/4" to 1 1/2"...	" " ".....	1.09
2" and 2 1/2"....	" " ".....	1.31
3".....	" " ".....	1.69
4" and 4 1/2"....	" " ".....	2.10
5" and 5 1/4"....	" " ".....	2.47
6" and 6 1/8"....	" " ".....	2.89
8".....	" " ".....	4.65
10".....	" " ".....	5.44
12".....	" " ".....	6.90

GAS TRANSMISSION PIPE LINE

3/4" to 1"	Nominal Inside Diameter	\$ 1.20
1 1/4" to 1 1/2"	" " "	1.45
2" and 2 1/2"	" " "	1.75
3"	" " "	2.25
4" and 4 1/2"	" " "	2.80
5" and 5 5/8"	" " "	3.30
6" and 6 5/8"	" " "	3.85
8"	" " "	6.20
10"	" " "	7.25
12"	" " "	9.20
14"	Outside Diameter	10.00
16"	" "	11.40
18"	" "	12.75
20"	" "	14.00
22"	" "	15.65
24"	" "	17.00
26"	" "	18.25
28"	" "	19.70
30"	" "	21.10
32"	" "	22.50
34"	" "	23.80
36"	" "	25.15
38"	" "	26.70
42"	" "	29.50

s. 10,
amended

- (2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of
assessment
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line
deemed to
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Depreciation
of pipe
lines

(12) A pipe line installed before 1970 shall be assessed for taxation at the rates set forth in subsection (3) but shall be depreciated up to the year 1970 at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent, and no allowance of depreciation shall be made with respect to a pipe line that is installed during or after 1970.

Review of
rates, etc.

(13) The rates set out in subsection (3) and the year up to which depreciation is allowed set out in subsection (12) shall be

reviewed by the Minister in 1986 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3) or change the year up to which depreciation is allowed set out in subsection (12).

(14) Notwithstanding any provision of this section to the contrary, the Lieutenant Governor in Council may, where two or more pipe lines occupy the same right-of-way, by regulation, designate the second and subsequent pipe lines and, by regulation, prescribe the percentage of the rates set out in subsection (3) at which the second and subsequent pipe lines are assessable and taxable and the percentages of rates as so prescribed shall apply until such percentages of rates are altered.

Where two or more pipe lines occupy same right-of-way

7. Section 11 of the said Act is repealed and the following substituted therefor: s. 11, re-enacted

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall, on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

Returns by telegraph and telephone companies

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted.

Apportionment of gross receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls.

What constitutes gross receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1).

Rate of tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in

the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable.

Idem

(6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed.

Collector
not bound by
statements

(7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company.

Application
to Supreme
Court

(8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.

How action
instituted

(9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.

Service

(10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.

Matter
deemed
action

(11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.

s. 21 (1),
amended

8. Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".

s. 22 (2) (c),
amended

9.—(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".

s. 22,
amended

(2) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26. Persons liable to tax

10. Subsection 23 (1) of the said Act is amended by striking out “by this Act” in the second line and inserting in lieu thereof “under section 3” and by striking out “owner of land subject to taxation” in the fifth line and inserting in lieu thereof “person liable to pay such tax”. s. 23 (1), amended

11. Section 24 of the said Act is repealed and the following substituted therefor: s. 24, re-enacted

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

12.—(1) Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3), amended

(2) Subsection 25 (4) of the said Act is repealed. s. 25 (4), repealed

(3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5), amended

(4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6), amended

(5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7), re-enacted

(7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

13. Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2), re-enacted;
s. 26 (3, 4), enacted

Recovery
of tax

(2) Upon default of payment of any tax payable under this Act,

(a) the collector may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance
to be proved
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies
for recovery
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

s. 27,
re-enacted

14. Section 27 of the said Act is repealed and the following substituted therefore:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a person Liability of debtor liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

(4) Where a person who is or is about to become indebted or Service on garnishee liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become in- Idem debted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act Garnishment of wages R.S.O. 1980, c. 526 moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally.

(7) Where any person, without reasonable excuse, has failed Failure to remit to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

15. Section 29 of the said Act is repealed and the following substituted s. 29, re-enacted therefor:

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. Delivery of tax bills

16. Section 31 of the said Act is amended by adding thereto the following subsection: s. 31, amended

Refunds of
tax on gross
receipts

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year.

s. 33 (1),
amended

17.—(1) Subsection 33 (1) of the said Act is amended by inserting after “under” in the first line and in the eleventh line “section 3 of”.

s. 33 (2),
re-enacted

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),
amended

(3) Subsection 33 (8) of the said Act is amended by striking out “in red ink” in the fourth line.

s. 35,
amended

18. Section 35 of the said Act is amended by striking out “owner” in the first line and inserting in lieu thereof “person”.

s. 38
(a, d, e),
re-enacted

19.—(1) Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

.

(d) for the purposes of subsection 10 (13), amending the table of rates set out in subsection 10 (3) and changing the year up to which depreciation shall be allowed set out in subsection 10 (12);

(da) for the purposes of subsection 10 (14), designating second and subsequent pipe lines and prescribing the percentage of the rates set out in subsection 10 (3) at which second and subsequent pipe lines shall be assessed and taxed;

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,
amended

(2) Section 38 of the said Act is amended by adding thereto the following clauses:

(h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;

(i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;

(j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

(3) The said section 38 is further amended by adding thereto the following subsections: s. 38,
amended

(2) The Minister may make regulations, Regulations
by Minister

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

(b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. Retroactivity

20.—(1) This Act, except section 11 and subsection 12 (5), comes into force on the 1st day of January, 1983. Commence-
ment

(2) Section 11 and subsection 12 (5) come into force on the 1st day of April, 1983. Idem

21. The short title of this Act is the *Provincial Land Tax Amendment Act, 1982*. Short title

An Act to amend the
Provincial Land Tax Act

1st Reading

May 14th, 1982

2nd Reading

June 22nd, 1982

3rd Reading

June 24th, 1982

THE HON. G. L. ASHE
Minister of Revenue

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Corporations Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

SECTION 1. This section re-enacts subsection 12 (6) relating to the 5/14ths inclusion in income of a rent, royalty or similar payment made to a related non-resident. The words "and that has included that amount in computing its taxable income earned in Canada" have been added at the end of subsection (6) to make it clear that the payer corporation will not be exempt from including 5/14ths of the payment in its income unless the non-resident corporation has in fact been taxed on that amount under the Ontario Act.

Subsection 12 (6a) is enacted to make it clear that a payment to a non-resident person which would otherwise be subject to the 5/14ths inclusion in income under subsection 12 (6) will still be subject to such inclusion if made to a person resident in Canada outside of Ontario, where such person is related to a non-resident person that controls the payer.

BILL 114

1982

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 12 (6) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(6) Where an amount in respect of,

(a) a management or administration fee or charge;

(b) a rent, royalty or a similar payment; or

(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

s. 12 (6),
re-enacted;
s. 12 (6a),
enacted

Management
fee, rent and
similar
payment to
non-resident
to be included
in income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/14ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph 212 (1)(a), (d) or (e) of the *Income Tax Act* (Canada) or subsection 212 (5) of that Act, except that clause (b) does not apply where the non-resident person to whom the amount is paid or payable is a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (b) or clause 2 (3) (b) and that has included that amount in computing its taxable income earned in Canada.

R.S.C. 1952,
c. 148

(6a) Where an amount to which subsection (6) would have been applied if it had been paid or payable to a non-resident person is paid or payable by a corporation (in this subsection referred to as the "payer") to a related person resident in Canada other than in Ontario and that person is related to another person not resident in Canada that controls the payer, the payer shall include 5/14ths of such amount in computing its income from a business or property for the taxation year.

Idem

s. 33 (1),
re-enacted

2.—(1) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Small business
incentives

(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to,

R.S.C. 1952,
c. 148

(a) 4 per cent of the amount determined under subsection (2); or

(b) 14 per cent of the amount determined under subsection (2) where the corporation has for a tax exempt year made a deduction under subsection 125 (1) of the *Income Tax Act* (Canada).

s. 33 (2) (a, b),
re-enacted

(2) Clauses 33 (2) (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) with respect to a corporation to which subsection 125 (1) of the *Income Tax Act* (Canada) applies, that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) for the taxation year, not exceeding \$200,000; and

(b) with respect to a corporation to which subsection 125 (1.1) of the *Income Tax Act* (Canada) applies, that proportion of the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) for the taxation year, not exceeding \$200,000,

s. 33,
amended

(3) Section 33 of the said Act is amended by adding thereto the following subsections:

Definition,
tax exempt
year

(2a) For the purpose of clause (1) (b), a "tax exempt year" of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1984, but in no case shall a corporation have more than two tax exempt years.

Interpre-
tation,
non-arm's
length
transactions

(2b) For the purpose of subsection (2a), where at any time after the 13th day of May, 1982, property of a corporation (hereinafter referred to as the "vendor") is acquired, by purchase or otherwise (including an acquisition as a result of an amalgamation described in section 87 of the *Income Tax Act* (Canada)), by another corporation (hereinafter referred to as the "purchaser") not dealing at arm's length with the vendor, and the property constitutes all or substantially all of the property of the vendor or the purchaser, as the case may be, any tax exempt year

SECTION 2. This section makes several amendments to section 33 of the Act relating to the small business incentives. Subsection 2 (1) adds clause (b) to subsection 33 (1) in order to provide that for small businesses eligible for the deduction from tax under subsection 125 (1) of the *Income Tax Act* (Canada), the small business incentive deduction under section 33 of this Act will be 14 per cent for the tax exempt years of such corporations, being any two taxation years ending after May 13, 1982 and before May 14, 1984.

Subsection (2) of this section amends clauses 33 (2) (a) and (b) to increase the limit for the amounts eligible for the small business incentive deduction to \$200,000 from \$150,000, in line with the proposed increase of the annual business limit of a corporation under section 125 of the *Income Tax Act* (Canada).

Subsection (3) of this section enacts new subsections 33 (2a) and (2b). Subsection 33 (2a) defines the tax exempt year of a corporation and is any taxation year ending after May 13, 1982 and before May 14, 1984, but there shall not be more than two tax exempt years. Subsection 33 (2b) clarifies the definition of tax exempt year to prevent additional claims for the exemption in the case of certain types of non-arm's length transfers and reorganizations.

SECTION 3. This section makes several amendments to section 53 of the Act relating to the calculation of paid-up capital for banks and loan and trust corporations. The new subsection (2) amends the terminology for banks to bring it in line with the new terminology in the *Bank Act* (Canada). There is no change in policy involved in this amendment.

Subsection 53 (5) is enacted to make it clear that where a bank has included in its "retained earnings" its share of the earnings of a subsidiary or controlled corporation, such amount will not be required to be included in its retained earnings for purposes of calculating its paid-up capital under section 53. This will avoid the double taxation of the amount excluded by the amendment since the subsidiary or controlled corporation may be required to include that amount in its paid-up capital.

Subsection 53 (6) is enacted to make the same amendment for loan and trust corporations as is being made for banks under the new subsection 53 (5).

Subsection 53 (7) is enacted to make it clear that the indebtedness of a corporation which is to be included in paid-up capital pursuant to clause 53 (1) (e) includes, in the case of a corporation that is the beneficiary of a trust, a portion of the indebtedness to which the property of the trust is subject equal to the corporation's beneficial interest in the trust. This does not represent a change in policy.

SECTION 4. This section adds two new subsections to section 54 of the Act. Subsection 54 (2a) clarifies the meaning of "total assets" for the purpose of calculating the investment allowance under clause 54 (1) (c). The amendment makes it clear that where the corporation is a partner of a partnership, the corporation's "total assets" will include the same proportion of the total assets of the partnership as the corporation's share of the profits of the partnership. This does not represent a change of policy.

of the vendor for which the vendor has made a deduction under clause (1) (b), ending in or before the taxation year of the purchaser in which the property was acquired, shall be deemed to be a tax exempt year of the purchaser for which the purchaser has made a deduction under clause (1) (b).

- 3.—(1) Subsection 53 (2) of the said Act is repealed and the following substituted therefor: s. 53 (2), re-enacted

(2) Notwithstanding subsection (1), the taxable paid-up capital of a bank for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable paid-up capital of banks

- (a) its paid-up capital stock;
- (b) its contributed surplus, its general reserve, and all of its other reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and
- (c) its retained earnings, its capital surplus, and any other surplus not included by virtue of clause (b).

- (2) Section 53 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, is further amended by adding thereto the following subsections: s. 53, amended

(5) For the purpose of subsection (2), in computing the taxable paid-up capital of a bank there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpretation, banks

(6) For the purpose of subsection (3), in computing the taxable paid-up capital of a corporation registered under the *Loan and Trust Corporations Act* there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpretation, loan and trust corporations
R.S.O. 1980, c. 249

(7) For the purpose of clause (1) (e), the indebtedness of a corporation that is the beneficiary of a trust shall include the same proportion of the indebtedness of the trust secured by the assets of the trust as its beneficial interest in the trust. Interpretation, trusts

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended by adding thereto the following subsections: s. 54, amended

Interpre-
tation,
"total assets"

(2a) For the purpose of clause (1) (c), "total assets" of a corporation includes the same proportion of the total assets of a partnership of which the corporation is a partner as the share of the profits of the partnership to which the corporation is entitled under the partnership agreement, but does not include the amount invested by the corporation in the partnership.

Interpre-
tation, "any
other surplus"

(2b) For the purpose of this Part, "any other surplus" includes, in addition to any amount included therein by virtue of subsection (3), any amount required to be included in income for the purpose of Part II, other than,

(a) an amount referred to in subsections 12 (6) and (6a); and

(b) an amount referred to in paragraph 12 (1) (o), subsections 15 (1) and (2), 17 (1) and subsection 37.1 (3) of the *Income Tax Act* (Canada) as made applicable by virtue of subsection 12 (1) of this Act,

R.S.C. 1952,
c. 148

to the extent that such amount is not included in the corporation's income as shown in its financial statements.

s. 70 (2) (a),
re-enacted

5.—(1) Clause 70 (2) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 14, is repealed and the following substituted therefor:

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of,

(A) the tax payable as estimated by it for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from,

Subsection 54 (2b) is enacted to make it clear that in calculating paid-up capital, "any other surplus" will include any amount that is required to be included in income for purposes of Part II but is not included in its retained earnings for book purposes. Exception is provided with respect to certain amounts.

SECTION 5. This section amends clause 70 (2) (a) regarding the methods for paying tax by instalments. Subclause (i) is amended to make it clear that the first two options of the corporation are to pay either 1/12th of the tax payable as estimated by it for the year or 1/12th of its first instalment base. Subclause (ii) is amended to give the corporation a fourth option. The existing third option is retained, namely, the option of basing its first two payments on its second instalment base and the remaining ten instalments on its first instalment base; the additional option is to base the remaining ten instalments on its tax payable as estimated by it for the current year.

Subsection (2) of this section enacts subsections 70 (8) and (9). Subsection 70 (8) provides that where the taxation year of a corporation does not end on the last day of a month, then the instalments will be required on the day of a month corresponding to the day on which the taxation year ends.

Subsection 70 (9) is complementary to the amendment made by section 2 of the Bill and provides that for a corporation which is entitled to the deduction under clause 33 (1) (b), the instalments required for a taxation year ending after a tax exempt year will be calculated as if it had not been entitled to the deduction under clause 33 (1) (b) but was only entitled to the deduction under clause 33 (1) (a). Since the instalments for a taxation year may be based on the tax payable for a previous taxation year, this provision was necessary to ensure payment of the proper amount of instalments for a taxation year ending after a tax exempt year of the corporation.

SECTION 6. This section enacts a new subsection 75 (1a) to provide that where a corporation eligible for the deduction under clause 33 (1) (b) has paid instalments for its first taxation year ending after May 13, 1982, the corporation may apply for a refund of any overpayment of instalments resulting from the deduction under clause 33 (1) (b). This amendment is complementary to the amendment made by section 2 of the Bill.

SECTION 7. This section amends subsection 76 (2) and is complementary to the amendments made by sections 2 and 6 of the Bill. This amendment provides that no interest will be payable on any refunds made pursuant to the new subsection 75 (1a).

(A) the tax payable as estimated by it for the taxation year under subclause (i), or

(B) its first instalment base for the taxation year.

- (2) Section 70 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 14, is further amended by adding thereto the following subsections: ^{s. 70, amended}

(8) For the purpose of subsection (2), where the taxation year of a corporation does not end on the last day of a calendar month, any reference in the said subsection (2) to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which the previous taxation year ended, except that where the previous taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month. ^{Idem}

(9) For the purpose of calculating, for a corporation to which clause 33 (1) (b) applied in a previous taxation year, the instalments required under clause (2) (a) for a taxation year other than a tax exempt year as defined in subsection 33 (2a), and for the purpose of calculating its first instalment base and second instalment base for that taxation year, the corporation shall be deemed to have made a deduction from tax under clause 33 (1) (a) and not 33 (1) (b). ^{Idem}

6. Section 75 of the said Act is amended by adding thereto the following subsection: ^{s. 75, amended}

(1a) Where a corporation is eligible for the deduction from tax under clause 33 (1) (b) in respect of its first taxation year ending after the 13th day of May, 1982, and it has paid instalments of tax in accordance with clause 70 (2) (a) in respect of that taxation year, the Minister may make a refund of such instalments if application therefor has been made in writing by the corporation prior to the date of assessment under section 73. ^{Idem}

7. Subsection 76 (2) of the said Act is repealed and the following substituted therefor: ^{s. 76 (2), re-enacted}

(2) Subsection (1) does not apply with respect to any refund or amount to which subsection 75 (1a) or (5) applies. ^{Application}

- 8.—(1) Subsection 5 (1) and subsection 70 (8) of the said Act, as enacted by subsection 5 (2) of this Act, shall be deemed to have <sup>Commence-
ment and
application</sup>

come into force on the 1st day of January, 1981 and apply to corporations in respect of all taxation years ending after 1980.

- | | |
|-------------|--|
| Idem | (2) Section 1 shall be deemed to have come into force on the 14th day of May, 1982 and applies to payments made after the 13th day of May, 1982. |
| Idem | (3) Subsections 2 (1) and (3), sections 3 and 4, subsection 70 (9) of the said Act, as enacted by subsection 5 (2) of this Act, and sections 6 and 7 shall be deemed to have come into force on the 14th day of May, 1982 and apply to corporations in respect of all taxation years ending after the 13th day of May, 1982. |
| Idem | (4) Subsection 2 (2) shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981. |
| Short title | 9. The short title of this Act is the <i>Corporations Tax Amendment Act, 1982</i> . |

An Act to amend the
Corporations Tax Act

1st Reading

May 14th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 114

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Corporations Tax Act

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 12 (6) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 12 (6),
re-enacted;
s. 12 (6a),
enacted

(6) Where an amount in respect of,

(a) a management or administration fee or charge;

(b) a rent, royalty or a similar payment; or

(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

Management
fee, rent and
similar
payment to
non-resident
to be included
in income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/14ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph 212 (1)(a), (d) or (e) of the *Income Tax Act* (Canada) or subsection 212 (5) of that Act, except that clause (b) does not apply where the non-resident person to whom the amount is paid or payable is a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (b) or clause 2 (3) (b) and that has included that amount in computing its taxable income earned in Canada.

R.S.C. 1952,
c. 148

(6a) Where an amount to which subsection (6) would have been applied if it had been paid or payable to a non-resident person is paid or payable by a corporation (in this subsection referred to as the "payer") to a related person resident in Canada other than in Ontario and that person is related to another person not resident in Canada that controls the payer, the payer shall include 5/14ths of such amount in computing its income from a business or property for the taxation year.

Idem

s. 33 (1),
re-enacted

2.—(1) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Small business
incentives

(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to,

R.S.C. 1952,
c. 148

(a) 4 per cent of the amount determined under subsection (2); or

(b) 14 per cent of the amount determined under subsection (2) where the corporation has for a tax exempt year made a deduction under subsection 125 (1) of the *Income Tax Act* (Canada).

s. 33 (2) (a, b),
re-enacted

(2) Clauses 33 (2) (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) with respect to a corporation to which subsection 125 (1) of the *Income Tax Act* (Canada) applies, that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) for the taxation year, not exceeding \$200,000; and

(b) with respect to a corporation to which subsection 125 (1.1) of the *Income Tax Act* (Canada) applies, that proportion of the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) for the taxation year, not exceeding \$200,000,

s. 33,
amended

(3) Section 33 of the said Act is amended by adding thereto the following subsections:

Definition,
tax exempt
year

(2a) For the purpose of clause (1) (b), a “tax exempt year” of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1984, but in no case shall a corporation have more than two tax exempt years.

Interpre-
tation,
non-arm's
length
transactions

(2b) For the purpose of subsection (2a), where at any time after the 13th day of May, 1982, property of a corporation (hereinafter referred to as the “vendor”) is acquired, by purchase or otherwise (including an acquisition as a result of an amalgamation described in section 87 of the *Income Tax Act* (Canada)), by another corporation (hereinafter referred to as the “purchaser”) not dealing at arm's length with the vendor, and the property constitutes all or substantially all of the property of the vendor or the purchaser, as the case may be, any tax exempt year

of the vendor for which the vendor has made a deduction under clause (1) (b), ending in or before the taxation year of the purchaser in which the property was acquired, shall be deemed to be a tax exempt year of the purchaser for which the purchaser has made a deduction under clause (1) (b).

- 3.—(1) Subsection 53 (2) of the said Act is repealed and the following substituted therefor: s. 53 (2),
re-enacted

(2) Notwithstanding subsection (1), the taxable paid-up capital of a bank for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable
paid-up
capital
of banks

(a) its paid-up capital stock;

(b) its contributed surplus, its general reserve, and all of its other reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and

(c) its retained earnings, its capital surplus, and any other surplus not included by virtue of clause (b).

- (2) Section 53 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, is further amended by adding thereto the following subsections: s. 53,
amended

(5) For the purpose of subsection (2), in computing the taxable paid-up capital of a bank there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpre-
tation, banks

(6) For the purpose of subsection (3), in computing the taxable paid-up capital of a corporation registered under the *Loan and Trust Corporations Act* there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpre-
tation, loan
and trust
corporations
R.S.O. 1980,
c. 249

(7) For the purpose of clause (1) (e), the indebtedness of a corporation that is the beneficiary of a trust shall include the same proportion of the indebtedness of the trust secured by the assets of the trust as its beneficial interest in the trust. Interpre-
tation, trusts

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended by adding thereto the following subsections: s. 54,
amended

Interpre-
tation,
"total assets"

(2a) For the purpose of clause (1) (c), "total assets" of a corporation includes the same proportion of the total assets of a partnership of which the corporation is a partner as the share of the profits of the partnership to which the corporation is entitled under the partnership agreement, but does not include the amount invested by the corporation in the partnership.

Interpre-
tation, "any
other surplus"

(2b) For the purpose of this Part, "any other surplus" includes, in addition to any amount included therein by virtue of subsection (3), any amount required to be included in income for the purpose of Part II, other than,

(a) an amount referred to in subsections 12 (6) and (6a); and

(b) an amount referred to in paragraph 12 (1) (o), subsections 15 (1) and (2), 17 (1) and subsection 37.1 (3) of the *Income Tax Act* (Canada) as made applicable by virtue of subsection 12 (1) of this Act,

R.S.C. 1952,
c. 148

to the extent that such amount is not included in the corporation's income as shown in its financial statements.

s. 70 (2) (a),
re-enacted

5.—(1) Clause 70 (2) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 14, is repealed and the following substituted therefor:

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of,

(A) the tax payable as estimated by it for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from,

(A) the tax payable as estimated by it for the taxation year under subclause (i), or

(B) its first instalment base for the taxation year.

- (2) Section 70 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 14, is further amended by adding thereto the following subsections:

(8) For the purpose of subsection (2), where the taxation year of a corporation does not end on the last day of a calendar month, any reference in the said subsection (2) to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which the previous taxation year ended, except that where the previous taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month. Idem

(9) For the purpose of calculating, for a corporation to which clause 33 (1) (b) applied in a previous taxation year, the instalments required under clause (2) (a) for a taxation year other than a tax exempt year as defined in subsection 33 (2a), and for the purpose of calculating its first instalment base and second instalment base for that taxation year, the corporation shall be deemed to have made a deduction from tax under clause 33 (1) (a) and not 33 (1) (b). Idem

8. Section 75 of the said Act is amended by adding thereto the following subsection: s. 75, amended

(1a) Where a corporation is eligible for the deduction from tax under clause 33 (1) (b) in respect of its first taxation year ending after the 13th day of May, 1982, and it has paid instalments of tax in accordance with clause 70 (2) (a) in respect of that taxation year, the Minister may make a refund of such instalments if application therefor has been made in writing by the corporation prior to the date of assessment under section 73. Idem

7. Subsection 76 (2) of the said Act is repealed and the following substituted therefor: s. 76 (2), re-enacted

(2) Subsection (1) does not apply with respect to any refund or amount to which subsection 75 (1a) or (5) applies. Application

- 8.—(1) Subsection 5 (1) and subsection 70 (8) of the said Act, as enacted by subsection 5 (2) of this Act, shall be deemed to have Commencement and application

come into force on the 1st day of January, 1981 and apply to corporations in respect of all taxation years ending after 1980.

Idem

- (2) Section 1 shall be deemed to have come into force on the 14th day of May, 1982 and applies to payments made after the 13th day of May, 1982.

Idem

- (3) Subsections 2 (1) and (3), sections 3 and 4, subsection 70 (9) of the said Act, as enacted by subsection 5 (2) of this Act, and sections 6 and 7 shall be deemed to have come into force on the 14th day of May, 1982 and apply to corporations in respect of all taxation years ending after the 13th day of May, 1982.

Idem

- (4) Subsection 2 (2) shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981.

Short title

- 9.** The short title of this Act is the *Corporations Tax Amendment Act, 1982*.

An Act to amend the
Corporations Tax Act

1st Reading

May 14th, 1982

2nd Reading

June 23rd, 1982

3rd Reading

June 24th, 1982

THE HON. G. L. ASHE
Minister of Revenue

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Retail Sales Tax Act

THE HON. G. L. ASHE
Minister of Revenue

EXPLANATORY NOTES

GENERAL. The Bill implements the following proposals in the Treasurer's Budget:

- (a) The rate of tax on transient accommodation is decreased from 7 per cent to 5 per cent;
- (b) The tax of 7 per cent on taxable services is extended to the labour required to install, adjust, repair or maintain goods;
- (c) Candies, confections and soft drinks which were previously exempt when purchased for less than 50 cents, will no longer be exempt from tax. Snack foods, such as potato chips and salted nuts, previously exempt, will no longer be so;
- (d) The exemption from tax for prepared meals under \$6.00 is removed and tax becomes exigible on the purchase of all food products sold through eating establishments including restaurants, lunch counters or snack bars whether the food products are consumed on the premises, taken out or delivered. The rate of tax on prepared meals is reduced from 10 per cent to 7 per cent;
- (e) Existing exemptions from the 7 per cent rate of tax are revised as follows:
 - (i) magazines will be exempt only when purchased by subscription,
 - (ii) the exemption for vehicles fueled exclusively by fuels other than gasoline or diesel oil is expanded to include vehicles that are fueled by both fossil and alternate fuels,
 - (iii) trees, shrubs, bushes, seeds and plants will be exempt only when purchased by persons engaged in the business of farming,
 - (iv) there will no longer be any exemption from tax for personal hygiene and household products, materials for thermal insulation, street flushers, street sweepers, classroom or student supplies, buses for public transportation, pets, patterns, textiles, smoke alarms, restaurant and hotel furnishings, materials used to provide transient accommodation and materials purchased for the construction of hospitals, nurses' residences, schools, universities and capital works of a municipality.

In addition to these changes, other administrative changes are proposed that will clarify the application of the Act and provide that purchasers who refuse to pay the retail sales tax owing at the time of a sale, will no longer be entitled to complete the sale. Penalty provisions are introduced for such purchasers and for vendors who wilfully complete a sale without collecting the tax.

SECTION 1.—Subsection 1. The amendment provides that where there is a deemed sale of tangible personal property under the Act from a corporation to its shareholders as a result of winding up or dissolution of the corporation, retail sales tax will be payable on the fair market value of the tangible personal property which is transferred.

Subsection 2. Provides for a deemed sale of tangible personal property from a corporation to its shareholders at the time of the winding up of the corporation except where the corporation has already paid retail sales tax with respect to its use or consumption of the property or where the tangible personal property is otherwise exempt from tax under the Act or is acquired by the shareholder for the purpose of resale.

Subsection 3. The amendment removes from the definition of "tangible personal property" those chattels for which rent is paid after they are attached to realty and become fixtures. The result of the amendment is that retail sales tax will become payable on the purchase price of the chattel when it is purchased for installation or attachment to the realty rather than on the rental payments subsequently charged for the chattel.

Paragraph 19 of section 1 of the Act now reads as follows:

1. *In this Act,*

19. *"tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural gas, manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid for possession or occupation of the real property to which the chattel is affixed.*

Subsection 4. The amendment expands the definition of "taxable service" to include the labour provided to install, adjust, repair or maintain goods.

Paragraph 21 of section 1 now reads as follows:

1. *In this Act,*

21. *"taxable service" means,*

- (a) *telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge, or*
- (b) *transient accommodation.*

Subsection 5. The amendment expands the definition of "transient accommodation" to include prepared food products furnished on the American plan or modified American plan.

Paragraph 24 of section 1 now reads as follows:

24. *"transient accommodation" means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house, rooming house, or boarding house, if such house has accommodation for fewer than four tenants.*

SECTION 2.—Subsection 1. The amendment reduces the tax on prepared meals to 7 per cent.

Subsection 2 (2) now reads as follows:

(2) *Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:*

1. *liquor, beer or wine;*

2. *prepared meals sold at a price of over \$6.00.*

Subsection 2. The amendment applies a tax rate of 7 per cent to the labour provided to install, alter, repair or maintain goods.

Subsection 2 (3) now reads as follows:

(3) *Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 7 per cent of the fair value thereof.*

Subsection 3. The amendment provides for a reduction on the rate of tax on transient accommodation to 5 per cent.

SECTION 3.—Subsection 1. The amendment excludes from the exemption for food products, candies, confections, soft drinks, snack foods and all food products purchased after June 13, 1982 from an eating establishment.

Paragraph 1 of subsection 5 (1) now reads as follows:

(1) *The purchaser of the following classes of tangible personal property and taxable services is exempt from the tax imposed by this Act:*

1. *food products for human consumption, except candies, confections or soft drinks purchased for a price that exceeds 49 cents, or for a price that exceeds 49 cents and that is specified to be payable in the purchase of two or more items, packages, bags, cartons or containers thereof.*

Subsection 2. The amendment provides exemptions from the tax on labour provided to install, adjust, repair or maintain goods with respect to the installation of fixtures and repair of realty, reconditioning for resale, provision of the taxable service for own use and repair where no tax is exigible on repair parts. The exemption from tax for prepared meals under \$6.00 is removed.

Paragraph 2 of subsection 5 (1) now reads as follows:

2. *any prepared meal the price of which neither exceeds \$6.00 nor is included in the sale price of two or more prepared meals that are sold to one purchaser for a total sale price that exceeds \$6.00.*

Subsection 3. The exemption from tax for prepared meals under \$6.00 is removed.

Paragraph 3 of subsection 5 (1) now reads as follows:

3. *all prepared meals the prices of which are included in the total sale price of two or more prepared meals that are sold to one purchaser and that are consumed by two or more people if the average price of all the prepared meals the prices of which are included in such total sale price is not more than \$6.00 and if that average price is determined by dividing such total price by the number of people to whom was served a prepared meal the price of which was included in such total sale price and if the bill to the purchaser that contains such total sale price clearly shows the number of*

people to whom were served the prepared meals the prices of which were included in such total sale price.

Subsection 4. The amendment expands the exemption from vehicles fueled exclusively by fuels other than gasoline or diesel oil, to include vehicles that are fueled by both fossil and alternate fuels.

Paragraph 14 of subsection 5 (1) now reads as follows:

- 14. vehicles that are required to be licensed under the Highway Traffic Act and the energy to operate which is exclusively electrical energy or energy derived from the internal combustion of ethyl alcohol, methyl alcohol, natural gas or manufactured gas, but only if no part of the energy for the operation of the vehicle is derived from the internal combustion of any fuel taxed under the Gasoline Tax Act or the Motor Vehicle Fuel Tax Act.*

Subsection 5. The amendment provides for an exemption for "agricultural products" as defined by the Minister when purchased by persons engaged in the business of farming.

Paragraph 15 of subsection 5 (1) now reads as follows:

- 15. farm implements, farm machinery, farm equipment and repair parts, as defined by the Minister, that in his opinion are to be used by a person engaged in the business of farming.*

Subsection 6. The amendments repeal the exemption for trees, shrubs, bushes, seeds and plants, the purchase of live stock and for personal hygiene and household products.

Paragraphs 16, 21 and 24 of subsection 5 (1) now read as follows:

- 16. trees, shrubs, bushes, seeds and seedlings, cut flowers and plants, bulbs from which plants or flowers may be grown, growing plants and flowers and the containers in which they are growing, but not any artificial plant, flower or tree;*

- 21. agricultural products, including live stock;*

- 24. personal hygiene and household products, as defined by the Minister, purchased for household use and not for use in any commercial, industrial or institutional establishment.*

Subsection 7. The amendment removes the exemption for street flushers and street sweepers purchased by a municipality, university or public hospital. The exemption for the purchase of fire-fighting vehicles is extended to include local service boards and volunteer groups.

Paragraph 27 of subsection 5 (1) now reads as follows:

- 27. street flushers, street sweepers and fire-fighting vehicles, as defined by the Minister, and purchased for the exclusive use of a municipality, university or public hospital at a price of more than \$1,000 per vehicle.*

Subsection 8. The amendment repeals the exemption for materials used for thermal insulation and for items used to provide transient accommodation.

Paragraphs 29 and 30 of subsection 5 (1) now read as follows:

29. *materials or equipment that are used for the conservation of energy and that are,*

- (a) *thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,*
- (b) *storm windows and storm doors, as defined by the Minister,*
- (c) *heat pumps for use principally to provide heat in the heating system of a building,*
- (d) *heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,*
- (e) *units or chillers that are designed for use as part of an air-conditioning system and for the recovery and redistribution of heat when such units or chillers meet the conditions and specifications prescribed by the Minister,*
- (f) *solar cells to be used to produce directly from sunlight electricity to charge batteries,*
- (g) *solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,*
- (h) *windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,*
- (i) *timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,*
- (j) *wood-burning stoves and wood-burning furnaces, or*
- (k) *wind deflectors for trucks;*

30. *tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation.*

Subsection 9. The amendment provides for an expression of metric measurement.

Paragraph 34 of subsection 5 (1) now reads as follows:

34. *vessels of more than 500 tons gross.*

Subsection 10. The amendment provides updated expressions for various physical handicaps.

Paragraph 38 of subsection 5 (1) now reads as follows:

38. *equipment designed solely for the use of blind persons, cripples or chronic invalids.*

Subsection 11. The amendment is made for housekeeping purposes.

Clause (e) of paragraph 45 of subsection 5 (1) now reads as follows:

- (e) a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, a captive balloon with a volume of 150,000 cubic feet or more, or wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier.*

Subsection 12. The amendment provides for an expression of metric measurement.

Paragraph 47 of subsection 5 (1) now reads as follows:

- 47. tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 500 tons gross that normally operate in extra-territorial waters.*

Subsection 13. The amendments made to paragraphs 48 and 49 are for housekeeping purposes.

The exemption for classroom supplies and students' supplies is repealed.

Paragraphs 48, 49, 51 and 52 of subsection 5 (1) now read as follows:

- 48. the occupancy of transient accommodation during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, provided that occupancy for any period of twenty-four hours or less that includes any part of the 7th day of March, 1978 is not entitled to the exemption conferred by this paragraph, and occupancy for any period of twenty-four hours or less that includes any part of the 31st day of December, 1981, is entitled to the exemption conferred by this paragraph;*
- 49. prepared meals served during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, if such prepared meals are provided together with transient accommodation in the said period for one charge for both meals and accommodation under the system commonly known as "the American Plan" or "Modified American Plan";*

51. classroom supplies, as defined by the Minister purchased for use or consumption and not for resale by schools, school boards or universities;

52. students' supplies, as defined by the Minister.

Subsection 14. The amendment provides for an exemption for those books that are defined by the Minister.

Paragraph 53 of subsection 5 (1) now reads as follows:

- 53. books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes and that contain no advertising, but not directories, price lists, time tables, rate books, catalogues, reports, fashion books, albums or any books of the same general classes.*

Subsection 15. The amendment provides that magazines will be exempt only if purchased by subscription.

Paragraph 55 of subsection 5 (1) now reads as follows:

55. magazines as defined by the Minister.

Subsection 16. The amendment is made for housekeeping purposes.

Paragraph 57 of subsection 5 (1) now reads as follows:

57. machinery or equipment that, pursuant to a contract for the acquisition or rental of such machinery or equipment or pursuant to a direction for the fabrication or manufacture thereof made or given after the 7th day of April, 1975 and before the 1st day of January, 1977, is delivered after the 7th day of April, 1975 and before the 1st day of January, 1978 to the person by whom such machinery or equipment is to be used, if such machinery or equipment is, in the opinion of the Minister, to be used principally in,

(a) the process of manufacturing or producing tangible personal property for sale or use by the manufacturer or producer thereof, or

(b) the construction of capital works, buildings, structures, roads or similar projects when the value of any separate piece of machinery or equipment so used and for which exemption is claimed under this paragraph is not less than \$500,

but no exemption may be claimed under this paragraph for any machinery or equipment,

(c) that is, in the opinion of the Minister, principally used in the production or provision of a taxable service,

(d) the contract for the rental or acquisition of which or the direction for the fabrication or manufacture of which is, in the opinion of the Minister, made for the purpose of obtaining the exemption conferred by this paragraph in substitution for or as the result of the cancellation of a substantially similar contract entered into or direction made or given before the 8th day of April, 1975, or

(e) prescribed by the Minister to be excluded from the exemption conferred by this paragraph.

Subsection 17. The amendment removes the exemption for educational publications and exempts publications of a charitable or benevolent organization.

Paragraph 65 of subsection 5 (1) now reads as follows:

65. religious and educational publications, as defined by the Minister.

Subsection 18. The amendment removes the exemption for buses purchased for public transportation.

Paragraph 67 of subsection 5 (1) now reads as follows:

67. buses, excluding school buses, when purchased in good faith to provide public transportation within a municipality as defined by the Minister, and repairs to such equipment.

Subsection 19. The amendment removes the exemption for tangible personal property that is purchased through a contract for incorporation into a hospital, nurses' residence, school or university building.

Paragraph 68 of subsection 5 (1) now reads as follows:

68. *tangible personal property that enters directly into and becomes part of real property that is a building or structure and that, upon completion is owned by the governing board of a public hospital, school or university and used for school, university or hospital purposes, including a nurses' residence, if the cost of such tangible personal property is shown to have been directly and substantially borne by the school, university or public hospital, or the governing board thereof, that owns the building or structure into the construction of which such tangible personal property entered.*

Subsection 20. The amendment removes the exemption for tangible personal property that becomes part of the construction of capital works owned by a municipality.

The amendment also removes the exemption for household pets.

Paragraphs 69 and 72 of subsection 5 (1) now read as follows:

69. *tangible personal property that enters directly into and becomes part of the construction of capital works that, upon completion, are owned by a municipality or by a local board thereof, if the cost of such tangible personal property is shown to have been directly and substantially borne by the municipality or local board thereof that owns the capital works into the construction of which such tangible personal property entered;*

72. *animals, including birds, fish and reptiles, sold for use as household pets.*

Subsection 21. The amendment replaces an expression of Imperial measurement with the metric expression.

Paragraph 75 of subsection 5 (1) now reads as follows:

75. *vessels, as defined by the Minister, that do not exceed 500 tons gross and that are operated for commercial purposes, repairs to such vessels, and machinery or equipment purchased to refit such vessels.*

Subsection 22. The amendment repeals the exemption for patterns, textiles and smoke alarms. The repeal of paragraphs 79, 80, 81 and 82 removes various exemptions whose qualification periods have expired and is, therefore, made for housekeeping purposes.

Paragraphs 76, 77, 78, 79, 80, 81 and 82 now read as follows:

76. *patterns for the making of clothing or wearing apparel;*

77. *textiles, as defined by the Minister, and trimmings therefor, as defined by the Minister, but not including floor coverings, canvas, plastics of any kind, metal cloth, natural or synthetic fur and leather, or thread, wool, yarn and similar materials for sewing, knitting, crocheting and similar handicrafts, or any material or product prescribed by the Minister to be excluded from the exemption conferred by this paragraph;*

78. *self-contained household smoke alarms purchased for use in residential premises;*

79. *furnishings, as defined by the Minister, or food preparation equipment, as defined by the Minister, when purchased for use in restaurants of the class or type prescribed by the Minister, or purchased for use in any hotel, motel, tourist resort or other similar tourist establishment, of the class or description prescribed by the Minister, provided that such furnishings or food preparation equipment is sold to, and delivery thereof is taken by, the purchaser wholly within the period commencing on the 11th day of April, 1979 and ending with the 31st day of December, 1981;*
80. *furniture, other than that prescribed by the Minister to be excluded from the exemption conferred by this paragraph, that is purchased for private household use, if the purchase is made before the 1st day of July, 1981 and delivery thereof is taken by the purchaser on or after the 14th day of November, 1980 and before the 1st day of July, 1981;*
81. *major home appliances that are manufactured for private household use and that are,*
 - (a) *refrigerators, freezers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or*
 - (b) *washers or dryers for the laundering of clothes,**but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,*
 - (c) *purchased before the 1st day of July, 1981 and delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981, and*
 - (d) *not appliances or a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph;*
82. *building materials, as defined by the Minister, that are purchased before the 1st day of July, 1981 and are delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981.*

SECTION 4.—Subsection 1. The amendment provides that the form of Disallowance of a Rebate or Refund of tax will no longer be required to be prescribed by the Minister.

Subsection 17 (2) now reads as follows:

- (2) *Where a person has, in accordance with this Act and the regulations, applied for a refund or rebate under this Act or the regulations, and his claim is in whole or in part refused, the Minister shall cause to be served on such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.*

Subsection 2. The proposed amendment provides that the Minister may assess a penalty against a vendor who has failed to collect the tax that he is responsible to collect under the Act. The maximum is an amount equal to the tax that the vendor failed to collect.

Subsection 17 (3) now reads as follows:

- (3) *Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations and who has not complied with section 19 with respect to his failure to collect such tax shall, when assessed therefor, pay a penalty equal to the amount of tax that he failed to collect, but where the tax that should have been collected from a particular purchaser is \$50 or more and the vendor supplies to the Minister particulars of the transaction giving rise to such amount of tax and the name and address in Ontario of the purchaser liable for the tax, the Minister may, unless he is satisfied that the vendor wilfully neglected to collect such tax from such purchaser, assess such purchaser for such tax, in which case such tax shall not be included in an assessment made under this subsection.*

Subsection 3. The amendment adds two subsections which allow the Minister to assess a penalty against a vendor who has wilfully failed to collect or remit to the Treasurer tax exigible under the Act and against a purchaser who has wilfully refused to pay tax that is payable under this Act.

SECTION 5. The proposed amendment removes the provision which entitles a vendor to complete a sale without collecting the tax exigible, notify the Minister of the particulars of the sale and the name of the purchaser.

Section 19 now reads as follows:

19. *The purchaser is liable for the tax imposed by this Act until it is collected, and, where the purchaser refuses to pay the tax at the time it is collectable under section 10, the vendor shall within twenty days thereafter, notify the Minister thereof.*

SECTION 6. The amendment adds a subsection which clarifies that the assignee of the accounts receivable of a person who is a vendor under the Act must collect the tax exigible with respect to the account receivable so assigned and remit the tax to the Treasurer.

SECTION 7. The amendment removes the provisions which entitle the Minister to require a taxpayer to pay moneys into court as security for costs in an appeal commenced under the Act.

Subsections 23 (5) and (6) of the Act now read as follows:

- (5) *An appeal under this section and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, void unless security for the costs of the appeal has been, within the same period, paid into court in such sum, not exceeding \$400, as the Minister requires and, upon an appeal becoming void by virtue of this subsection, no other appeal or proceeding shall be instituted in respect of the same decision.*
- (6) *When security has been given under subsection (5), notice thereof shall be served on the Minister specifying the fact and the purpose of the payment.*

SECTION 8. The amendment is consequential on the amendment made in section 7 of the Bill.

Section 24 of the Act now reads as follows:

24. *The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on,*

and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice under subsection 23 (6), the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment shall be repaid to the appellant, but nothing in this section revives an appeal that is void or affects a statement or assessment that has become valid and binding under subsection 16 (8) or subsection 17 (7).

SECTION 9. The subsection to be added empowers the Minister to authorize vendors to advertise or quote a price that includes the retail sales tax payable provided that the vendors who are authorized meet all conditions required by the Minister with respect to the advertisement.

SECTION 10.—Subsection 1. The amendment permits the Minister to make regulations providing that no tax is exigible with respect to the consumption by certain persons or classes of persons of prepared food products where no specific charge is made for the prepared food product.

Clause 45 (3) (d) of the Act now reads as follows:

- (d) providing for the rebate of all or part of the tax paid on the purchase of a motor vehicle that is or will be adapted for the transportation of persons who have a permanent physical handicap that renders it impractical for them to use the usual forms of public transportation, if available, provided that such purchasers do not operate or permit the use of such vehicles for profit or as part of any undertaking carried on for gain, and the Minister may determine the conditions on which such rebate may be made and the extent of the adaption necessary to entitle any person to such rebate.*

Subsection 2. The amendment provides for the repeal of two regulation-making powers of the Minister. The repeal of clauses 45 (3) (f) and (h) is consequential on the repeal of the exemption for the purchase of thermal insulation materials contained in section 3 of the Bill.

Clauses 45 (3) (f) and (h) of the Act now read as follows:

- (f) providing for the refund of tax paid on the purchase of thermal insulation materials, as defined for the purposes of paragraph 29 of subsection 5 (1), used after the 6th day of April, 1976 to insulate a building the construction of which has been completed, that is occupied permanently or seasonally for residential purposes, and that is not a building to which the exemption conferred by paragraph 29 of subsection 5 (1) does not apply;*
- (h) providing for the rebate of not more than \$700 of tax paid on the purchase of parts and materials incorporated into the construction of a solar heating system for residential premises, and prescribing the meaning of the expression "solar heating system", the conditions upon which and the class of persons to whom such rebate may be made, and the type of residential premises in which the installation of such solar heating system may qualify for the rebate.*

BILL 115 **1982**

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

s. 1, par. 4,
amended

- (e) in the case of a sale within the meaning of clause (i) of paragraph 17, the fair market value of the tangible personal property transferred to any shareholder,

- (2) Paragraph 17 of the said section 1 is amended by striking out all that part of the paragraph following clause (h) and by adding thereto the following clause:

s. 1, par. 17,
amended

- (i) the transfer of title to or possession of tangible personal property from a corporation to any shareholder thereof as the result of the winding up or dissolution of the corporation, except where the corporation has paid tax under this Act with respect to its consumption or use of the tangible personal property to be transferred, or where, at the time of the corporation's winding up or dissolution, the tangible personal property is exempt from tax under this Act or is acquired by a shareholder solely for the purpose of resale.

- (3) Paragraph 19 of the said section 1 is amended by striking out “manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid

s. 1, par. 19,
amended

for possession or occupation of the real property to which the chattel is affixed" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "and manufactured gas".

s. 1, par. 21,
amended

- (4) Paragraph 21 of the said section 1 is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

(c) labour provided to install, adjust, repair or maintain tangible personal property.

s. 1, par. 24,
amended

- (5) Paragraph 24 of the said section 1 is amended by inserting after "lodging" in the fifth line "and includes the provision of prepared food products provided pursuant to the American plan, modified American plan or any other arrangement which combines the provision of lodging and prepared food products at a single price,".

s. 2 (2),
re-enacted

- 2.**—(1) Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

of liquor,
beer, wine

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof.

s. 2 (3),
amended

- (2) Subsection 2 (3) of the said Act is amended by inserting after "service" in the first line "described in clause (a) or (c) of paragraph 21 of section 1".

s. 2,
amended

- (3) Section 2 of the said Act is amended by adding thereto the following subsection:

Idem

(3) Every purchaser of a taxable service described in clause (b) of paragraph 21 of section 1 shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

s. 5 (1),
par. 1,
re-enacted

- 3.**—(1) Paragraph 1 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

1. food products for human consumption except,

(a) candies, confections, snack foods or soft drinks,
and

(b) prepared food products purchased after the 13th day of June, 1982 from an eating establishment, as defined by the Minister.

- (2) Paragraph 2 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),
par. 2,
re-enacted

2. taxable services that are described in clause (c) of paragraph 21 of section 1 and that are,

- (a) provided to repair, adjust, restore or maintain real property,
- (b) provided to install tangible personal property that will become real property upon installation,
- (c) provided to maintain, restore or repair tangible personal property where the repairs or repair parts used in the maintenance, restoration or repair may be purchased exempt from tax or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations,
- (d) provided to repair or recondition tangible personal property purchased for resale by a vendor, or
- (e) provided by a person for his own consumption or use.

- (3) Paragraph 3 of the said subsection 5 (1) is repealed. s. 5 (1),
par. 3,
repealed

- (4) Paragraph 14 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),
par. 14,
re-enacted

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either, R.S.O. 1980,
c. 198

- (a) exclusively electrical energy or energy derived from internal combustion of ethanol, methanol, natural gas or manufactured gas, or

- (b) a combination of such energy with any fuel taxed under the *Gasoline Tax Act*, the *Motor Vehicle Fuel Tax Act* or the *Fuel Tax Act, 1981*. R.S.O. 1980,
cc. 186, 300;
1981, c. 59

- (5) Paragraph 15 of the said subsection 5 (1) is amended by inserting after "equipment" in the first line "agricultural products". s. 5 (1),
par. 15,
amended

s. 5 (1),
pars. 16, 21,
24, repealed

- (6) Paragraphs 16, 21 and 24 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 27,
re-enacted

- (7) Paragraph 27 of the said subsection 5 (1) is repealed and the following substituted therefor:

27. fire-fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group.

s. 5 (1),
pars. 29, 30,
repealed

- (8) Paragraphs 29 and 30 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 34,
amended

- (9) Paragraph 34 of the said subsection 5 (1) is amended by striking out "500 tons gross" and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),
par. 38,
re-enacted

- (10) Paragraph 38 of the said subsection 5 (1) is repealed and the following substituted therefor:

38. equipment designed solely for the use of persons who are chronic invalids or physically handicapped.

s. 5 (1),
par. 45,
amended

- (11) Clause (e) of paragraph 45 of the said subsection 5 (1) is amended by striking out "a captive balloon with a volume of 150,000 cubic feet or more, or" in the fourth and fifth lines.

s. 5 (1),
par. 47,
amended

- (12) Paragraph 47 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the fourth line and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),
pars. 48, 49,
51, 52,
repealed

- (13) Paragraphs 48, 49, 51 and 52 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 53,
re-enacted

- (14) Paragraph 53 of the said subsection 5 (1) is repealed and the following substituted therefor:

53. books, as defined by the Minister.

s. 5 (1),
par. 55,
re-enacted

- (15) Paragraph 55 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed and the following substituted therefor:

55. magazines, as defined by the Minister, but only where purchased by subscription.

s. 5 (1),
par. 57,
repealed
s. 5 (1),
par. 65,
re-enacted

- (16) Paragraph 57 of the said subsection 5 (1) is repealed.

- (17) Paragraph 65 of the said subsection 5 (1) is repealed and the following substituted therefor:

65. publications, as defined by the Minister, of a religious, charitable or benevolent organization.

- (18) Paragraph 67 of the said subsection 5 (1) is repealed. s. 5 (1),
par. 67,
repealed
- (19) Paragraph 68 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed. s. 5 (1),
par. 68,
repealed
- (20) Paragraphs 69 and 72 of the said subsection 5 (1) are repealed. s. 5 (1),
pars. 69, 72,
repealed
- (21) Paragraph 75 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the second line and inserting in lieu thereof "1,400 cubic metres". s. 5 (1),
par. 75,
amended
- (22) Paragraphs 76, 77, 78, 79, 80, 81 and 82 of the said subsection 5 (1) are repealed. s. 5 (1),
pars. 76-82,
repealed

4.—(1) Subsection 17 (2) of the said Act is amended by striking out "in such form as the Minister shall prescribe" in the fifth and sixth lines. s. 17 (2),
amended

(2) Subsection 17 (3) of the said Act is repealed and the following substituted therefor: s. 17 (3),
re-enacted

(3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax that he failed to collect, but where the Minister has assessed such tax against the purchaser from whom it should have been collected, the Minister shall not make an assessment under this subsection against the vendor. Penalty for
non-collection
of tax

(3) Section 17 of the said Act is amended by adding thereto the following subsections: s. 17,
amended

(3a) Where the Minister is satisfied that a vendor's failure to collect tax that he is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, he may assess a penalty against such vendor, Penalty for
wilful non-
collection
of tax

- (a) in an amount equal to the greater of \$25 or 25 per cent of the tax that he failed to collect, where a penalty has been assessed against him under subsection (3) in respect of his failure to collect; and
- (b) in an amount equal to the greater of \$25 or one and one-quarter times the amount of tax that he failed to collect where no penalty has been assessed against him under subsection (3).

Penalty

(5a) Where, under section 16, the Minister has assessed a vendor for tax collected or a purchaser for tax payable, he may further assess such vendor or purchaser a penalty equal to the greater of \$100 or 25 per cent of the tax so assessed under section 16, but no penalty shall be assessed under this subsection unless the Minister is satisfied that the non-compliance with the Act or regulations by such vendor or purchaser that gave rise to the assessment made under section 16 was attributable to neglect, carelessness, wilful default or fraud.

s. 19,
repealed

5. Section 19 of the said Act is repealed.

s. 20,
amended

6. Section 20 of the said Act is amended by adding thereto the following subsection:

Assignment
of book
debts

(9) Where accounts receivable of a vendor are assigned under a specific or general assignment of book debts or are transferred in any other manner, any person who collects the amount owing under the accounts receivable that have been assigned or transferred, shall, whether he be any assignee, any person to whom the book debts were transferred, or agent for either of such persons, any liquidator, administrator, receiver, receiver-manager, trustee or like person, collect the tax that is payable under this Act with respect to the sales that gave rise to the accounts receivable that are being collected and that has not been collected by any vendor, and such person shall be deemed to be a vendor under this Act and to hold any tax collected under this Act in trust for Her Majesty in right of Ontario and shall remit any tax collected by him to the Treasurer at the time or times and in such manner as are prescribed by regulation.

s. 23 (5, 6),
repealed

7. Subsections 23 (5) and (6) of the said Act are repealed.

s. 24,
amended

8. Section 24 of the said Act is amended by striking out "under subsection 23 (6)" in the seventh line and inserting in lieu thereof "of appeal".

s. 38,
amended

9. Section 38 of the said Act is amended by adding thereto the following subsection:

Where
advertised
price may
include tax

(2) Notwithstanding subsection (1), the Minister may, where he considers it appropriate, authorize a vendor to advertise or quote a price that includes the tax imposed by this Act but only where the amount or rate of the tax so included is separately specified in such manner as the Minister requires and the Minister may specify such other conditions with respect to the advertisement or quotation that the vendor must satisfy.

s. 45 (3) (d),
re-enacted

10.—(1) Clause 45 (3) (d) of the said Act is repealed and the following substituted therefor:

- (d) prescribing persons or classes of persons with respect to whose consumption of prepared food products no tax is exigible provided that those prepared food products are provided by them without specific charge.

(2) Clauses 45 (3) (f) and (h) of the said Act are repealed.

s. 45 (3)
(f, h),
repealed
Commence-
ment

11.—(1) This Act, except sections 1, 2, 3, 4, 5 and 10 comes into force on the day it receives Royal Assent.

(2) Subsections 1 (1), (2) and (3), subsection 3 (1), subsections 3 (4) to (22), sections 4 and 5 and subsection 10 (2) shall be deemed to have come into force on the 14th day of May, 1982.

(3) Subsections 1 (4) and (5), subsections 2 (1) and (2), subsections 3 (2) and (3) and subsection 10 (1) shall be deemed to have come into force on the 14th day of June, 1982.

(4) Subsection 2 (3) shall be deemed to have come into force on the 14th day of June, 1982 with respect to the occupancy of transient accommodation during a period commencing after the 13th day of June, 1982.

12. The short title of this Act is the *Retail Sales Tax Amendment Act, 1982*.

Short title

An Act to amend the Retail Sales Tax Act

1st Reading

May 17th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

BILL 115

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Retail Sales Tax Act

THE HON. G. L. ASHE
Minister of Revenue

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

s. 1, par. 4,
amended

- (e) in the case of a sale within the meaning of clause (i) of paragraph 17, the fair market value of the tangible personal property transferred to any shareholder,

- (2) Paragraph 17 of the said section 1 is amended by striking out all that part of the paragraph following clause (h) and by adding thereto the following clause:

s. 1, par. 17,
amended

- (i) the transfer of title to or possession of tangible personal property from a corporation to any shareholder thereof as the result of the winding up or dissolution of the corporation, except where the corporation has paid tax under this Act with respect to its consumption or use of the tangible personal property to be transferred, or where, at the time of the corporation's winding up or dissolution, the tangible personal property is exempt from tax under this Act or is acquired by a shareholder solely for the purpose of resale.

- (3) Paragraph 19 of the said section 1 is amended by striking out “manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid

s. 1, par. 19,
amended

for possession or occupation of the real property to which the chattel is affixed" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "and manufactured gas".

s. 1, par. 21,
amended

- (4) Paragraph 21 of the said section 1 is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

(c) labour provided to install, adjust, repair or maintain tangible personal property.

s. 1, par. 24,
amended

- (5) Paragraph 24 of the said section 1 is amended by inserting after "lodging" in the fifth line "and includes the provision of prepared food products provided pursuant to the American plan, modified American plan or any other arrangement which combines the provision of lodging and prepared food products at a single price,".

s. 2 (2),
re-enacted

- 2.**—(1) Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

of liquor,
beer, wine

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof.

s. 2 (3),
amended

- (2) Subsection 2 (3) of the said Act is amended by inserting after "service" in the first line "described in clause (a) or (c) of paragraph 21 of section 1".

s. 2,
amended

- (3) Section 2 of the said Act is amended by adding thereto the following subsection:

Idem

(3a) Every purchaser of a taxable service described in clause (b) of paragraph 21 of section 1 shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

s. 5 (1),
par. 1,
re-enacted

- 3.**—(1) Paragraph 1 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

1. food products for human consumption except,

(a) candies, confections, snack foods or soft drinks,
and

(b) prepared food products purchased after the 13th day of June, 1982 from an eating establishment, as defined by the Minister.

- (2) Paragraph 2 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),
par. 2,
re-enacted

2. taxable services that are described in clause (c) of paragraph 21 of section 1 and that are,

- (a) provided to repair, adjust, restore or maintain real property,
- (b) provided to install tangible personal property that will become real property upon installation,
- (c) provided to maintain, restore or repair tangible personal property where the repairs or repair parts used in the maintenance, restoration or repair may be purchased exempt from tax or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations,
- (d) provided to repair or recondition tangible personal property purchased for resale by a vendor, or
- (e) provided by a person for his own consumption or use.

- (3) Paragraph 3 of the said subsection 5 (1) is repealed. s. 5 (1),
par. 3,
repealed

- (4) Paragraph 14 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),
par. 14,
re-enacted

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either, R.S.O. 1980,
c. 198

- (a) exclusively electrical energy or energy derived from internal combustion of ethanol, methanol, natural gas or manufactured gas, or
- (b) a combination of such energy with any fuel taxed under the *Gasoline Tax Act*, the *Motor Vehicle Fuel Tax Act* or the *Fuel Tax Act, 1981*. R.S.O. 1980,
cc. 186, 300;
1981, c. 59

- (5) Paragraph 15 of the said subsection 5 (1) is amended by inserting after "equipment" in the first line "agricultural products". s. 5 (1),
par. 15,
amended

s. 5 (1),
pars. 16, 21,
24, repealed

- (6) Paragraphs 16, 21 and 24 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 27,
re-enacted

- (7) Paragraph 27 of the said subsection 5 (1) is repealed and the following substituted therefor:

27. fire-fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group.

s. 5 (1),
pars. 29, 30,
repealed

- (8) Paragraphs 29 and 30 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 34,
amended

- (9) Paragraph 34 of the said subsection 5 (1) is amended by striking out "500 tons gross" and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),
par. 38,
re-enacted

- (10) Paragraph 38 of the said subsection 5 (1) is repealed and the following substituted therefor:

38. equipment designed solely for the use of persons who are chronic invalids or physically handicapped.

s. 5 (1),
par. 45,
amended

- (11) Clause (e) of paragraph 45 of the said subsection 5 (1) is amended by striking out "a captive balloon with a volume of 150,000 cubic feet or more, or" in the fourth and fifth lines.

s. 5 (1),
par. 47,
amended

- (12) Paragraph 47 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the fourth line and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),
pars. 48, 49,
51, 52,
repealed

- (13) Paragraphs 48, 49, 51 and 52 of the said subsection 5 (1) are repealed.

s. 5 (1),
par. 53,
re-enacted

- (14) Paragraph 53 of the said subsection 5 (1) is repealed and the following substituted therefor:

53. books, as defined by the Minister.

s. 5 (1),
par. 55,
re-enacted

- (15) Paragraph 55 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed and the following substituted therefor:

55. magazines, as defined by the Minister, but only where purchased by subscription.

s. 5 (1),
par. 57,
repealed
s. 5 (1),
par. 65,
re-enacted

- (16) Paragraph 57 of the said subsection 5 (1) is repealed.

- (17) Paragraph 65 of the said subsection 5 (1) is repealed and the following substituted therefor:

65. publications, as defined by the Minister, of a religious, charitable or benevolent organization.

- (18) Paragraph 67 of the said subsection 5 (1) is repealed. s. 5 (1),
par. 67,
repealed
 - (19) Paragraph 68 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed. s. 5 (1),
par. 68,
repealed
 - (20) Paragraphs 69 and 72 of the said subsection 5 (1) are repealed. s. 5 (1),
pars. 69, 72,
repealed
 - (21) Paragraph 75 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the second line and inserting in lieu thereof "1,400 cubic metres". s. 5 (1),
par. 75,
amended
 - (22) Paragraphs 76, 77, 78, 79, 80, 81 and 82 of the said subsection 5 (1) are repealed. s. 5 (1),
pars. 76-82,
repealed
- 4.—(1) Subsection 17 (2) of the said Act is amended by striking out "in such form as the Minister shall prescribe" in the fifth and sixth lines. s. 17 (2),
amended
- (2) Subsection 17 (3) of the said Act is repealed and the following substituted therefor: s. 17 (3),
re-enacted
- (3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax that he failed to collect, but where the Minister has assessed such tax against the purchaser from whom it should have been collected, the Minister shall not make an assessment under this subsection against the vendor. Penalty for
non-collection
of tax
- (3) Section 17 of the said Act is amended by adding thereto the following subsections: s. 17,
amended
- (3a) Where the Minister is satisfied that a vendor's failure to collect tax that he is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, he may assess a penalty against such vendor, Penalty for
wilful non-
collection
of tax
- (a) in an amount equal to the greater of \$25 or 25 per cent of the tax that he failed to collect, where a penalty has been assessed against him under subsection (3) in respect of his failure to collect; and
 - (b) in an amount equal to the greater of \$25 or one and one-quarter times the amount of tax that he failed to collect where no penalty has been assessed against him under subsection (3).

Penalty

(5a) Where, under section 16, the Minister has assessed a vendor for tax collected or a purchaser for tax payable, he may further assess such vendor or purchaser a penalty equal to the greater of \$100 or 25 per cent of the tax so assessed under section 16, but no penalty shall be assessed under this subsection unless the Minister is satisfied that the non-compliance with the Act or regulations by such vendor or purchaser that gave rise to the assessment made under section 16 was attributable to neglect, carelessness, wilful default or fraud.

s. 19,
repealed

5. Section 19 of the said Act is repealed.

s. 20,
amended

6. Section 20 of the said Act is amended by adding thereto the following subsection:

Assignment
of book
debts

(9) Where accounts receivable of a vendor are assigned under a specific or general assignment of book debts or are transferred in any other manner, any person who collects the amount owing under the accounts receivable that have been assigned or transferred, shall, whether he be any assignee, any person to whom the book debts were transferred, or agent for either of such persons, any liquidator, administrator, receiver, receiver-manager, trustee or like person, collect the tax that is payable under this Act with respect to the sales that gave rise to the accounts receivable that are being collected and that has not been collected by any vendor, and such person shall be deemed to be a vendor under this Act and to hold any tax collected under this Act in trust for Her Majesty in right of Ontario and shall remit any tax collected by him to the Treasurer at the time or times and in such manner as are prescribed by regulation.

s. 23 (5, 6),
repealed

7. Subsections 23 (5) and (6) of the said Act are repealed.

s. 24,
amended

8. Section 24 of the said Act is amended by striking out "under subsection 23 (6)" in the seventh line and inserting in lieu thereof "of appeal".

s. 38,
amended

9. Section 38 of the said Act is amended by adding thereto the following subsection:

Where
advertised
price may
include tax

(2) Notwithstanding subsection (1), the Minister may, where he considers it appropriate, authorize a vendor to advertise or quote a price that includes the tax imposed by this Act but only where the amount or rate of the tax so included is separately specified in such manner as the Minister requires and the Minister may specify such other conditions with respect to the advertisement or quotation that the vendor must satisfy.

s. 45 (3) (d),
re-enacted

10.—(1) Clause 45 (3) (d) of the said Act is repealed and the following substituted therefor:

- (d) prescribing persons or classes of persons with respect to whose consumption of prepared food products no tax is exigible provided that those prepared food products are provided by them without specific charge.

(2) Clauses 45 (3) (f) and (h) of the said Act are repealed.

s. 45 (3)
(f, h),
repealed

11.—(1) This Act, except sections 1, 2, 3, 4, 5 and 10 comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Subsections 1 (1), (2) and (3), subsection 3 (1), subsections 3 (4) to (22), sections 4 and 5 and subsection 10 (2) shall be deemed to have come into force on the 14th day of May, 1982.

Idem

(3) Subsections 1 (4) and (5), subsections 2 (1) and (2), subsections 3 (2) and (3) and subsection 10 (1) shall be deemed to have come into force on the 14th day of June, 1982.

Idem

(4) Subsection 2 (3) shall be deemed to have come into force on the 14th day of June, 1982 with respect to the occupancy of transient accommodation during a period commencing after the 13th day of June, 1982.

Idem

12. The short title of this Act is the *Retail Sales Tax Amendment Act*, 1982.

Short title

An Act to amend the Retail Sales Tax Act

1st Reading

May 17th, 1982

2nd Reading

June 21st, 1982

3rd Reading

July 7th, 1982

THE HON. G. L. ASHE
Minister of Revenue

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to provide for the Publication of Remuneration paid to
Officers and Employees of Public Agencies and of Public
Bodies Substantially Supported by Public Funds**

THE HON. F. S. MILLER
Treasurer of Ontario and Minister of Economics

EXPLANATORY NOTE

The purpose of the Bill is to enact the proposals contained in the Budget for the annual publication of the names and salaries of those in the broadly-defined public sector of Ontario's economy who earn \$30,000 or more in a year.

In the Bill, "public agency" is defined to include the Crown and its agencies and corporations, municipalities and their agencies and commissions, school boards, colleges and universities, and hospitals. Beginning in 1983, these public agencies will be required to publish statements of those of their officers and employees who, in 1982, earned \$30,000 or more, and for the purpose of comparison, 1981 earnings will also be required to be shown. The information on remuneration paid in the preceding year is to be made available by September 30 in each year from 1983 on.

Provision is made in sections 2 and 3 of the Bill for the public availability of the annual remuneration statement of each public agency and for examination of the statements without charge by the public. Where copies of the statements are requested from a public agency, a reasonable fee may be charged to defray the cost of copying.

The Bill further provides by section 4 that, for a public agency's failure to comply with the Act, an audit and examination of the public agency's records may be authorized to obtain the information for the preparation and publication of a proper annual remuneration statement. The cost of the audit and preparation of the statement is to be borne by the public agency.

BILL 116

1982

**An Act to provide for the Publication of
Remuneration paid to Officers and Employees
of Public Agencies and of Public Bodies
Substantially Supported by Public Funds**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "annual remuneration statement" means a written statement of a public agency made as of the end of each year and covering the year so ended and showing within each range of \$10,000 (commencing with the range of \$30,000 to \$40,000 followed consecutively by each higher range for which data exist) the names in alphabetical order of each officer or employee of the public agency whose remuneration for the year is within one of the ranges to be shown in the statement, each such name to be followed by the amount of the remuneration of that officer or employee for the year and by the amount of his or her remuneration for the immediately preceding year;
- (b) "Crown" means the Crown in right of Ontario;
- (c) "officer" includes every person, other than an employee, who holds an office or position in a public agency or is a member of a public agency, and who has been paid any remuneration by a public agency;
- (d) "public agency" includes,
 - (i) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the Lieuten-

ant Governor in Council or a member of the Executive Council,

R.S.O. 1980,
c. 303

- (ii) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario,

R.S.O. 1980,
c. 129

- (iii) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown,

R.S.O. 1980,
c. 410

- (iv) every board as defined in the *Public Hospitals Act*,

- (v) every corporation with share capital, 90 per cent of the issued shares of which are beneficially held by or for a public agency described in subclauses (i) to (iv),

- (vi) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, a public agency described in subclauses (i) to (iv), and

- (vii) any authority, board, commission, corporation, office or organization of persons designated by the Lieutenant Governor in Council by regulation as a public agency;

(e) "regulations" means the regulations made under this Act;

(f) "remuneration" means the salary, emoluments or other compensation paid by a public agency to or in respect of an officer or employee thereof, and includes the value of any benefit provided by a public agency that is required to be included in the income of an officer or employee for the purposes of the *Income Tax Act* (Canada), but does not include money paid to reimburse an officer or employee for expenses actually incurred by him in the performance of his duties;

R.S.C. 1952,
c. 148

(g) "statement year" means, at any particular time, the then latest year as of the end of which an annual remuneration statement was required by subsection 2 (1) to be made available to the public by a public agency;

(h) "year" means the twelve-month period ending on the 31st day of December.

2.—(1) Within the nine months following the year 1982, and within the nine months following each subsequent year, every public agency shall, in accordance with this Act and the regulations, make available to the public an annual remuneration statement showing the remuneration paid by the public agency in the immediately preceding year to or in respect of each of the public agency's officers or employees. Remuneration made public

(2) Every public agency shall, in addition to complying with subsection (1) and at the same time as it complies with that subsection, transmit at least five copies of its annual remuneration statement for the statement year to the member of the Executive Council who is responsible for the public agency or for the administration of an Act under or by the authority of which the public agency was created or constituted or derives its principal authority to carry on its activities. Additional copies to be provided

(3) The member of the Executive Council to whom copies of any annual remuneration statement are to be transmitted under subsection (2) or under the regulations shall place two of such copies in such repository as the Clerk of the Assembly directs, to provide access to such copies for the members of the Assembly. Idem

(4) The member of the Executive Council to whom copies of a public agency's annual remuneration statement are to be transmitted under subsection (2) or under the regulations may, in writing and at the request of the public agency, extend to such date as he considers reasonable the time within which the public agency is required by subsections (1) and (2) to make its annual remuneration statement available to the public and to transmit copies thereof to him, but such extension of time shall be granted only where he is satisfied that earlier disclosure of the annual remuneration statement would be prejudicial to the public agency and not in the public interest. Extension of time for compliance

3.—(1) The provisions of subsections 2 (2) and (3) shall not be interpreted to restrict the access of the public to the information to be made available under subsection 2 (1), and do not prevent wider distribution of such information than that required by subsections 2 (2) and (3). Public access not restricted

Public
examination
of statement

(2) Every public agency shall keep at its principal office legible copies of its annual remuneration statements, and shall, without charge, permit reasonable examination of such statements by any person during the normal office hours of the public agency.

Fees
chargeable

(3) Subject to subsection (2), a public agency may charge such reasonable fee as is considered proper for the provision to any person of a copy for his own use of the public agency's annual remuneration statement, but no charge shall be made for the copies required to be transmitted under subsection 2 (2) or under the regulations.

Audit and
examination

4.—(1) Where, without reasonable excuse, a public agency fails to comply fully and effectually with this Act, the member of the Executive Council to whom copies of the public agency's annual remuneration statement are to be transmitted in accordance with subsection 2 (2) or the regulations may, on behalf of the Crown, retain such qualified person or persons as he considers necessary and adequate, and authorize him or them to audit and examine the relevant records, bank accounts and financial information of such public agency and to prepare and make available as he shall direct a proper annual remuneration statement for such public agency for any statement year for which such proper statement is not available.

Assistance
with audit

(2) Every public agency, and every officer or employee thereof, shall, where an audit and examination is authorized under subsection (1), take all necessary action and make available all necessary facilities to facilitate and promote the accuracy of such audit and examination, and no person shall hinder or obstruct any person authorized under subsection (1) to make an audit or examination.

Cost of
audit

(3) The proper charges and fees of any person or persons for an audit and examination under subsection (1) and for the preparation of any annual remuneration statement shall be paid out of the Consolidated Revenue Fund and are thereupon a debt due to the Crown from the public agency so audited and examined, and are recoverable by action or otherwise from such public agency.

Consolidation
of statements

5.—(1) With the approval in writing of the member of the Executive Council to whom their annual remuneration statements are to be transmitted under subsection 2 (2) or the regulations, and subject to such conditions as may be specified in the approval, any two or more public agencies may consolidate their separate annual remuneration statements into one annual remuneration statement where such consolidation would be more economical and efficient, would better suit the organizational

structure and relationship of such public agencies, and would not be contrary to the public interest.

(2) The amount of any remuneration to be shown in an annual remuneration statement may be shown rounded to the nearest whole dollar. Amount may be rounded

6.—(1) Her Majesty the Queen in right of Ontario is bound by this Act. Crown to be bound

(2) This Act applies to every past or future enactment notwithstanding any provision in such enactment to the contrary, unless, and then only to the extent that, such enactment expressly provides for the inapplicability of any or all of the provisions of this Act. This Act to prevail

7. Notwithstanding section 2, where the salary or wages of an officer or employee of a public agency is paid out of the Consolidated Revenue Fund from money appropriated for such payment, the remuneration of such officers or employees that is to be shown in any annual remuneration statement shall be shown in one annual remuneration statement prepared by the Crown and made available to the public within the time required for the delivery of the public accounts of Ontario for the fiscal year ending next after the statement year for which such annual remuneration statement is made, and the name and amount of remuneration of any person included in the annual remuneration statement prepared under this section need not be shown in the annual remuneration statement of any other public agency. Annual remuneration statement of Crown

8. A public agency that has no officers or employees whose remuneration for a statement year is \$30,000 or more is not required to make available an annual remuneration statement for that statement year. Where no statement necessary

9. This Act shall be administered by the Treasurer of Ontario and Minister of Economics or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act. Administration of Act

10. The Lieutenant Governor in Council may by regulation, Regulations

- (a) prescribe information in addition to that specified in this Act that shall be provided by any public agency or class of public agency in an annual remuneration statement;
- (b) prescribe the format, form and manner in which an annual remuneration statement shall be printed or produced;

- (c) designate as a public agency any authority, board, commission, corporation, office or organization of persons;
- (d) prescribe the fees, or method of computation of fees, that may be charged by a public agency for the provision to the public of copies of an annual remuneration statement;
- (e) define any word or expression in this Act that is not already defined, and further define the expressions "officer" and "remuneration" in order to prevent or mitigate the avoidance by any person of the application of this Act to any situation or circumstance to which it is considered this Act should be applicable;
- (f) designate the member of the Executive Council to whom a public agency or class of public agency shall transmit copies of its annual remuneration statement under subsection 2 (2);
- (g) delegate to any person or persons in the public service of Ontario any power or duty conferred or imposed by this Act on any member of the Executive Council;
- (h) alter the amounts of \$30,000 and \$40,000 to such other amounts as are prescribed for the purpose of clause 1 (a) and the application of this Act.

Commence-
ment

11. This Act comes into force on the day it receives Royal Assent.

Short title

12. The short title of this Act is the *Public Remuneration Disclosure Act, 1982*.

An Act to provide for the Publication of
Remuneration paid to Officers and
Employees of Public Agencies and of Public
Bodies Substantially Supported by Public
Funds

1st Reading

May 18th, 1982

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Treasurer of Ontario and
Minister of Economics

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Ontario New Home Warranties Plan Act**

MR. PHILIP

EXPLANATORY NOTE

The Bill provides that damages in respect of unfinished work are not excluded from the categories of damage for which compensation may be payable out of H.U.D.A.C.'s guarantee fund.

The Bill also increases, from fifteen to sixty days, the period during which a person seeking review of a decision about compensation made by H.U.D.A.C. may require a hearing by The Commercial Registration Appeal Tribunal.

BILL 117

1982

An Act to amend the Ontario New Home Warranties Plan Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 14 (1) of the *Ontario New Home Warranties Plan Act*, s. 14 (1),
being chapter 350 of the Revised Statutes of Ontario, 1980, is amended
amended by adding at the end thereof "but the regulations shall
not exclude from the amount payable damages in respect of
unfinished work".
2. Subsection 16 (2) of the said Act is amended by striking out s. 16 (2),
"fifteen" in the third line and inserting in lieu thereof "sixty". amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Ontario New Home Warranties* Short title
Plan Amendment Act, 1982.

An Act to amend the
Ontario New Home Warranties Plan Act

1st Reading

May 18th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Residential Tenancies Act**

MR. PHILIP

EXPLANATORY NOTE

The Bill would require that landlords of rental units that are exempt from rent review because they were not occupied before January 1, 1976 or because the monthly rental exceeds \$750 provide prospective tenants with written notice of the exempt status. The consequence of failure to provide notice would be to subject the unit to rent review for a two-year period.

BILL 118

1982

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 134 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:
 - (1a) Where clause (1) (c), (d) or (e) applies to a rental unit, the landlord shall ensure that written notice that the rental unit is so exempt is delivered to the tenant before the tenancy agreement is made. s. 134,
amended

Notice that
rental unit
exempt
 - (1b) Despite subsection (1), where a landlord fails to comply with subsection (1a), this Part applies to the rental unit until the second anniversary of the tenancy agreement or until termination of the tenancy, whichever is earlier. Failure
to give
notice
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title

An Act to amend the
Residential Tenancies Act

1st Reading

May 18th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipal Elections Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

EXPLANATORY NOTES

SECTION 1. "Minister" is now defined as the Minister of Intergovernmental Affairs; the amendment reflects the assignment of the administration of the Act to the Minister of Municipal Affairs and Housing by the *Ministry of Municipal Affairs and Housing Act, 1981*.

SECTION 2.—Subsection 1. The proposed re-enactment adds a reference to the poll clerk.

Subsection 2. Section 4 of the Act provides for the appointment of deputy returning officers, poll clerks, election assistants, assistant returning officers and assistant revising officers; the added subsection requires that these appointees be at least 18 years of age.

SECTION 3. Subsection 8 (1) of the Act now reads as follows:

- (1) *Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.*

The amendment will require that the costs of an election be paid on the certificate of the clerk of the responsible municipality.

SECTION 4. Section 16 of the Act now reads as follows:

16. *Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality.*

The re-enactment is designed to make it clear that a person entitled to be an elector under any provision of the Act is entitled to vote on a money by-law.

SECTION 5. Clauses 36 (1) (b) and (c) of the Act require nomination papers to show the name and address of the person nominated and the names and addresses of the electors signing the papers; the subsection (1a) to be added provides that the address to be shown is to be the address within the municipality of the relevant person.

The new subsection (8) provides that the determination of school support, for nomination paper purposes, is to be in accordance with that shown on the preliminary list of electors delivered to the clerk by the assessment commissioner, as revised up to the time the nomination paper is filed.

An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1, par. 18,
re-enacted

18. "Minister" means the Minister of Municipal Affairs and Housing.

- 2.—(1) Subsection 4 (4) of the said Act is repealed and the following substituted therefor: s. 4 (4),
re-enacted

(4) If a deputy returning officer or a poll clerk through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. Where D.R.O.
or poll clerk
unable to
perform
duties

- (2) Section 4 of the said Act is amended by adding thereto the following subsection: s. 4,
amended

(10) No person shall be appointed under this section who has not attained the age of eighteen years. Age of
persons
appointed

3. Subsection 8 (1) of the said Act is amended by adding at the end thereof "and all costs shall be paid on certification of the clerk". s. 8 (1),
amended

4. Section 16 of the said Act is repealed and the following substituted therefor: s. 16,
re-enacted

16. Every person entitled to be an elector in a municipality is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. Who may
vote on
money by-laws

5. Section 36 of the said Act is amended by adding thereto the following subsections: s. 36,
amended

What address
to be shown

(1a) The address referred to in clauses (1) (b) and (c) shall be the address within the municipality of the person nominated or the elector signing the nomination paper, as the case may be.

Determination
of whether
public or
separate school
elector

(8) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list of electors delivered to the clerk under section 22, as revised up to the time the nomination paper is filed.

s. 41 (2),
re-enacted

- 6.** Subsection 41 (2) of the said Act is repealed and the following substituted therefor:

Notice of
poll

(2) Notice of the time, and the date for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

s. 42 (4),
amended

- 7.** Subsection 42 (4) of the said Act is amended by striking out "the municipality shall comply with the provisions of the order" in the fifth and sixth lines and inserting in lieu thereof "the provisions of the order shall be complied with".

s. 43 (4),
re-enacted

- 8.** Subsection 43 (4) of the said Act is repealed and the following substituted therefor:

Where
addresses
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address, being the qualifying address within the municipality, of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

s. 46 (7, 8),
re-enacted;
s. 46 (9-11),
enacted

- 9.** Subsections 46 (7) and (8) of the said Act are repealed and the following substituted therefor:

Notice of
date and time
of polling and
of location
of polling
place

(7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the date and time of polling including advance polls and the location of the polling place in which the elector is to vote,

- (a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the date and time of polling and of the location of such polling place; and

SECTION 6. Subsection 41 (2) of the Act requires the clerk to give notice of the time for holding the poll where one is required; the re-enactment proposed will require the notice to include the day on which the poll is to be held.

SECTION 7. Subsection 42 (4) of the Act now reads as follows:

- (4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order.*

The amendment provides that not only the affected municipality must comply with the terms of a Minister's order authorizing the use of voting machines or recorders but also any other persons affected thereby.

SECTION 8. The amendment is similar in principle to that contained in section 5 of the Bill. The words "being the qualifying address within the municipality" found in the re-enactment, have been added to subsection 43 (4) of the Act as it now reads.

SECTION 9. Subsections 46 (7) and (8) of the Act now read as follows:

- (7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the location of the polling place in which that elector is to vote,*
- (a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the location of such polling place; and*
- (b) in the case of a non-resident elector, by mailing to the elector a notice of the location of such polling place.*

(8) *Notwithstanding clause (7) (a), the council of a municipality having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address.*

It will be observed that in the proposed re-enactment of those two subsections the notice to be given is to include a reference to the date and time of polling, including advance polls, in addition to the location of the polling place.

Subsections (9), (10) and (11) are new. Subsection (9) requires the clerk of a municipality having not more than 5,000 electors to give the notice described in that subsection. Subsection (10) restrains a municipality from repealing a by-law passed by it under subsection (8) later than the 1st day of September in an election year. Subsection (11) provides for notice to be given by newspaper publication in the event of a disruption of postal service.

SECTION 10. Section 49 of the Act provides, *inter alia*, that a public school elector or a separate school elector may respectively vote on the election of a member to a school board where the members of the board are to be elected by public school electors or by separate school electors, as the case may be.

New subsection (4) proposed to be added provides that the determination of school support for these purposes is to be in accordance with the polling list of electors for each polling subdivision as prepared and certified by the clerk after all applications for revision of the preliminary list have been determined.

SECTION 11. Section 57 of the Act now reads as follows:

57. *Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper.*

The words proposed by the amendment to be added at the end require the D.R.O. to enter on the polling list the name and address of an elector who has voted after another person has apparently voted as that elector.

SECTION 12.—Subsection 1. The clause to be repealed refers to the placing in the ballot box by the D.R.O. of a declaration that, by reason of an earlier amendment to the Act, is no longer required to be taken.

- (b) in the case of a non-resident elector, by mailing to the elector a notice of the date and time of polling and of the location of such polling place.

(8) Notwithstanding clause (7) (a), the council of a municipal- ^{Idem}ity having more than 5,000 electors may, by by-law passed not later than the 1st day of September in an election year, provide that the clerk shall advise each resident elector of the date and time of polling, including advance polls, and of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the date and time of polling and of the location of such polling place, which notice shall be directed to all the electors at that address.

(9) In municipalities having not more than 5,000 electors, the ^{Idem} clerk shall post a notice in two conspicuous places within the municipality and, where there is a newspaper having general circulation in the municipality, publish a notice once in the newspaper, advising the date and time of polling including advance polls and the location of the polling places.

(10) A by-law passed under subsection (8) shall remain in ^{Repeal of} effect until repealed but shall not be repealed in an election year ^{by-law} later than the 1st day of September.

(11) Where, by reason of a disruption in mail delivery service, ^{Where postal} it is not possible to comply with subsection (7) or (8), the clerk ^{service} shall publish a notice at least once in a newspaper having general ^{disrupted} circulation in the municipality advising the date and time of polling, including advance polls, and the location of the polling place in which each elector is to vote.

- 10.** Section 49 of the said Act is amended by adding thereto the following subsection: ^{s. 49,} ^{amended}

(4) For the purposes of this section, the determination as to ^{Determination} whether an elector is a public school elector or a separate school ^{of whether} elector shall be in accordance with the support indicated on the ^{public or} list certified under section 31. ^{separate} ^{school} ^{elector}

- 11.** Section 57 of the said Act is amended by adding at the end thereof ^{s. 57,} "and the deputy returning officer shall enter or cause to be entered ^{amended} on the polling list maintained by the poll clerk the name and address of such elector".

- 12.—**(1) Clause 78 (1) (d) of the said Act is repealed. ^{s. 78 (1) (d),} ^{repealed}

- (2) Subsection 78 (2) of the said Act is repealed and the following ^{s. 78 (2),} ^{re-enacted} substituted therefor:

Box to be
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.

s. 78 (4),
amended

(3) Subsection 78 (4) of the said Act is amended by inserting after "shall" in the eleventh line "except where otherwise directed by the clerk".

s. 80 (2),
re-enacted

13. Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

Opening
box when
documents
omitted from
or placed in
box in error,
etc.

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, or where the clerk considers it necessary to ascertain the meaning of a statement, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

s. 83,
amended

14. Section 83 of the said Act is amended by adding thereto the following subsection:

Determination
by judge of
ballot boxes
to be opened

(2a) Where an application is made under subsection (2), the judge may determine which ballot boxes shall be opened for the purpose of the recount.

s. 96,
amended

15. Section 96 of the said Act is amended by striking out "\$1,000" in the eighth line and inserting in lieu thereof "\$2,000".

s. 97,
amended

16. Section 97 of the said Act is amended by striking out "\$1,000" in the thirteenth line and inserting in lieu thereof "\$2,000".

s. 98,
amended

17. Section 98 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 99,
amended

18. Section 99 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 100,
amended

19. Section 100 of the said Act is amended by striking out "\$1,000" in the twentieth line and inserting in lieu thereof "\$2,000".

s. 101,
amended

20. Section 101 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 102,
amended

21. Section 102 of the said Act is amended by striking out "\$1,000" in the seventh line and inserting in lieu thereof "\$2,000".

SUBSECTION 2.—Subsection 78 (2) of the Act as it is proposed to be re-enacted is set out below showing underlined the words to be added:

- (2) *The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.*

SUBSECTION 3. The amendment is similar to that set out in subsection (2) above, and relates to the delivery of the ballot box to the clerk by the poll clerk or some person chosen by the D.R.O. where he is unable to do so owing to illness or other cause.

SECTION 13. The proposed re-enactment of subsection 80 (2) of the Act adds "or where the clerk considers it necessary to ascertain the meaning of a statement" to the grounds on which the clerk may open a ballot box.

SECTION 14. Section 83 of the Act sets out the procedure on a recount before a county court judge. The subsection to be added empowers the judge conducting the recount to determine which of the ballot boxes need to be re-opened for the purpose.

SECTIONS 15 to 22. These penalty provisions are amended to increase the maximum fine in each case to \$2,000.

SECTION 23. The general offence provision of the Act is broadened to include a reference to an order of the Minister authorizing the use of voting machines or recorders: see also the explanatory note to section 7 of the Bill.

SECTION 24.—Subsection 1. A reference is added to section 121 of the Act in relation to the imposition of penalties on a person found to have committed a corrupt practice, complementary to section 18 of the Bill.

Subsection 2. Complementary to section 17 of the Bill, normally an action as to whether any person is guilty of a corrupt practice may not be commenced later than ninety days after polling day.

SECTION 25. Section 121 of the Act now reads as follows:

121. The council of a municipality may by by-law provide for limitations on elections expenditures by or on behalf of a candidate and require the disclosure by a candidate of all election contributions to his campaign in excess of \$100 in the form of money and goods and services.

As re-enacted, the section will authorize cities, towns, villages, townships and The Regional Municipality of Niagara to, by by-law, regulate election contributions to, and require the reporting of expenses and contributions by, candidates for office on their respective councils. Where a by-law is passed it must contain the provisions mentioned in subsection (2). Any person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and, in addition to any other penalty or order the court may make when it determines a person has committed a corrupt practice, is liable to a fine of up to \$2,000.

22. Subsection 103 (1) of the said Act is amended by striking out all that part of the subsection immediately following clause (i) and inserting in lieu thereof "is guilty of bribery, and on conviction is liable to a fine of \$2,000, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years". s. 103 (1),
amended

23. Section 104 of the said Act is repealed and the following substituted therefor: s. 104,
re-enacted

104. Every person who contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided, or who contravenes an order of the Minister made under section 42, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. General
offence

24.—(1) Subsection 106 (2) of the said Act is amended by adding at the end thereof "and section 121". s. 106 (2),
amended

(2) Section 106 of the said Act is amended by adding thereto the following subsection: s. 106,
amended

(5) Notwithstanding subsection (4), an action may be commenced as to whether or not any person is guilty of a corrupt practice in respect of the contravention of a by-law passed under section 121, not later than the expiration of 180 days following the date of the election referred to in subsection (1). Idem

25. Section 121 of the said Act is repealed and the following substituted therefor: s. 121,
re-enacted

121.—(1) In this section, Interpre-
tation

(a) "candidate" does not include a candidate nominated for election to office as a member of a local board or as a trustee of a police village;

(b) "contributions" do not include any goods produced by voluntary unpaid labour or any services performed by an individual voluntarily for a candidate without compensation from any source;

(c) "municipality", in addition to the meaning set out in section 1, includes The Regional Municipality of Niagara;

(d) "person" includes a trade union, a corporation and an association;

(e) "spouse" means either of a man and woman who,

- (i) are married to each other, or
- (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
- (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
- (iv) not being married to each other have cohabited,
 - (A) continuously for a period of not less than five years, or
 - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,
 and have so cohabited within the preceding year.

By-law
regulating
election
contributions,
etc.

(2) The council of a municipality may pass a by-law regulating election contributions and requiring the reporting of expenses and contributions and, where a by-law is passed under this section, the by-law shall,

- (a) prohibit any person from making contributions in excess of \$500 in the form of money, goods or services to any candidate in any calendar year;
- (b) prohibit any candidate from accepting contributions in the form of money, goods or services in excess of \$500 from any person in any calendar year;
- (c) require a candidate or his representative to issue a receipt for all money contributions received by him;
- (d) require a candidate to keep a record of all expenses incurred by him in respect of his candidacy;
- (e) require a candidate to keep a record of all contributions received by him in respect of his candidacy, whether in the form of money, goods or services;
- (f) require candidates to file with the clerk of the municipality within ninety days of the date of the election a report which shall contain,

- (i) a statement of the total amount of money contributions received by the candidate in respect of his candidacy up to the date of such report,
 - (ii) a list of contributions in the form of goods or services and the value thereof received by the candidate in respect of his candidacy up to the date of such report,
 - (iii) the name, address and contribution of each person who, up to the date of such report, made a contribution whether in the form of money, goods or services of more than \$100, and
 - (iv) an itemized list of all expenses incurred by the candidate in respect of his candidacy up to the date of such report;
- (g) direct the clerk to submit to the council the information received by him pursuant to a by-law passed under this section; and
- (h) empower the clerk to prescribe forms for the purposes of a by-law passed under this section.

(3) Any moneys to be used for an election campaign by a candidate out of his own funds or out of the funds of the spouse of the candidate shall be deemed not to be a contribution for the purposes of a by-law passed under this section.

Candidate's
funds
deemed not
contribution

(4) A contribution made to a representative of a candidate shall be deemed to be a contribution to the candidate.

Contributions
to candidate's
representative

(5) Every person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and is liable to a fine of not more than \$2,000.

Contravention
of by-law

26. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

27. The short title of this Act is the *Municipal Elections Amendment Act, 1982*.

Short title

An Act to amend the
Municipal Elections Act

1st Reading

May 20th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 119

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Municipal Elections Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1, par. 18,
re-enacted

18. "Minister" means the Minister of Municipal Affairs and Housing.

- 2.—(1) Subsection 4 (4) of the said Act is repealed and the following substituted therefor: s. 4 (4),
re-enacted

(4) If a deputy returning officer or a poll clerk through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. Where D.R.O.
or poll clerk
unable to
perform
duties

- (2) Section 4 of the said Act is amended by adding thereto the following subsection: s. 4,
amended

(10) No person shall be appointed under this section who has not attained the age of eighteen years. Age of
persons
appointed

3. Subsection 8 (1) of the said Act is amended by adding at the end thereof "and all costs shall be paid on certification of the clerk". s. 8 (1),
amended

4. Section 16 of the said Act is repealed and the following substituted therefor: s. 16,
re-enacted

16. Every person entitled to be an elector in a municipality is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. Who may
vote on
money by-laws

5. Section 36 of the said Act is amended by adding thereto the following subsections: s. 36,
amended

What address
to be shown

(1a) The address referred to in clauses (1) (b) and (c) shall be the address within the municipality of the person nominated or the elector signing the nomination paper, as the case may be.

Determination
of whether
public or
separate school
elector

(8) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list of electors delivered to the clerk under section 22, as revised up to the time the nomination paper is filed.

s. 41 (2),
re-enacted

6. Subsection 41 (2) of the said Act is repealed and the following substituted therefor:

Notice of
poll

(2) Notice of the time, and the date for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

s. 42 (4),
amended

7. Subsection 42 (4) of the said Act is amended by striking out "the municipality shall comply with the provisions of the order" in the fifth and sixth lines and inserting in lieu thereof "the provisions of the order shall be complied with".

s. 43 (4),
re-enacted

8. Subsection 43 (4) of the said Act is repealed and the following substituted therefor:

Where
addresses
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address, being the qualifying address within the municipality, of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

s. 46 (7, 8),
re-enacted;
s. 46 (9-11),
enacted

9. Subsections 46 (7) and (8) of the said Act are repealed and the following substituted therefor:

Notice of
date and time
of polling and
of location
of polling
place

(7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the date and time of polling including advance polls and the location of the polling place in which the elector is to vote,

(a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the date and time of polling and of the location of such polling place; and

- (b) in the case of a non-resident elector, by mailing to the elector a notice of the date and time of polling and of the location of such polling place.

(8) Notwithstanding clause (7) (a), the council of a municipal- ^{Idem}ity having more than 5,000 electors may, by by-law passed not later than the 1st day of September in an election year, provide that the clerk shall advise each resident elector of the date and time of polling, including advance polls, and of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the date and time of polling and of the location of such polling place, which notice shall be directed to all the electors at that address.

(9) In municipalities having not more than 5,000 electors, the ^{Idem} clerk shall post a notice in two conspicuous places within the municipality and, where there is a newspaper having general circulation in the municipality, publish a notice once in the newspaper, advising the date and time of polling including advance polls and the location of the polling places.

(10) A by-law passed under subsection (8) shall remain in ^{Repeal of}effect until repealed but shall not be repealed in an election year ^{by-law} later than the 1st day of September.

(11) Where, by reason of a disruption in mail delivery service, ^{Where postal service disrupted} it is not possible to comply with subsection (7) or (8), the clerk shall publish a notice at least once in a newspaper having general circulation in the municipality advising the date and time of polling, including advance polls, and the location of the polling place in which each elector is to vote.

- 10.** Section 49 of the said Act is amended by adding thereto the following subsection: ^{s. 49, amended}

(4) For the purposes of this section, the determination as to ^{Determination of whether public or separate school elector} whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list certified under section 31.

- 11.** Section 57 of the said Act is amended by adding at the end thereof ^{s. 57, amended} "and the deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of such elector".

- 12.—**(1) Clause 78 (1) (d) of the said Act is repealed. ^{s. 78 (1) (d), repealed}

- (2) Subsection 78 (2) of the said Act is repealed and the following ^{s. 78 (2), re-enacted} substituted therefor:

Box to be
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.

s. 78 (4),
amended

(3) Subsection 78 (4) of the said Act is amended by inserting after "shall" in the eleventh line "except where otherwise directed by the clerk".

s. 80 (2),
re-enacted

13. Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

Opening
box when
documents
omitted from
or placed in
box in error,
etc.

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, or where the clerk considers it necessary to ascertain the meaning of a statement, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

s. 83,
amended

14. Section 83 of the said Act is amended by adding thereto the following subsection:

Determination
by judge of
ballot boxes
to be opened

(2a) Where an application is made under subsection (2), the judge may determine which ballot boxes shall be opened for the purpose of the recount.

s. 96,
amended

15. Section 96 of the said Act is amended by striking out "\$1,000" in the eighth line and inserting in lieu thereof "\$2,000".

s. 97,
amended

16. Section 97 of the said Act is amended by striking out "\$1,000" in the thirteenth line and inserting in lieu thereof "\$2,000".

s. 98,
amended

17. Section 98 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 99,
amended

18. Section 99 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 100,
amended

19. Section 100 of the said Act is amended by striking out "\$1,000" in the twentieth line and inserting in lieu thereof "\$2,000".

s. 101,
amended

20. Section 101 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 102,
amended

21. Section 102 of the said Act is amended by striking out "\$1,000" in the seventh line and inserting in lieu thereof "\$2,000".

22. Subsection 103 (1) of the said Act is amended by striking out all that part of the subsection immediately following clause (i) and inserting in lieu thereof "is guilty of bribery, and on conviction is liable to a fine of \$2,000, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years". s. 103 (1),
amended

23. Section 104 of the said Act is repealed and the following substituted therefor: s. 104,
re-enacted

104. Every person who contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided, or who contravenes an order of the Minister made under section 42, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. General
offence

24.—(1) Subsection 106 (2) of the said Act is amended by adding at the end thereof "and section 121". s. 106 (2),
amended

(2) Section 106 of the said Act is amended by adding thereto the following subsection: s. 106,
amended

(5) Notwithstanding subsection (4), an action may be commenced as to whether or not any person is guilty of a corrupt practice in respect of the contravention of a by-law passed under section 121, not later than the expiration of 180 days following the date of the election referred to in subsection (1). Idem

25. Section 121 of the said Act is repealed and the following substituted therefor: s. 121,
re-enacted

121.—(1) In this section, Interpre-
tation

(a) "candidate" does not include a candidate nominated for election to office as a member of a local board or as a trustee of a police village;

(b) "contributions" do not include any goods produced by voluntary unpaid labour or any services performed by an individual voluntarily for a candidate without compensation from any source;

(c) "municipality", in addition to the meaning set out in section 1, includes The Regional Municipality of Niagara;

(d) "person" includes a trade union, a corporation and an association;

(e) "spouse" means either of a man and woman who,

- (i) are married to each other, or
- (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
- (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
- (iv) not being married to each other have cohabited,
 - (A) continuously for a period of not less than five years, or
 - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year.

By-law
regulating
election
contributions,
etc.

(2) The council of a municipality may pass a by-law regulating election contributions and requiring the reporting of expenses and contributions and, where a by-law is passed under this section, the by-law shall,

- (a) prohibit any person from making contributions in excess of \$500 in the form of money, goods or services to any candidate in any calendar year;
- (b) prohibit any candidate from accepting contributions in the form of money, goods or services in excess of \$500 from any person in any calendar year;
- (c) require a candidate or his representative to issue a receipt for all money contributions received by him;
- (d) require a candidate to keep a record of all expenses incurred by him in respect of his candidacy;
- (e) require a candidate to keep a record of all contributions received by him in respect of his candidacy, whether in the form of money, goods or services;
- (f) require candidates to file with the clerk of the municipality within ninety days of the date of the election a report which shall contain,

- (i) a statement of the total amount of money contributions received by the candidate in respect of his candidacy up to the date of such report,
- (ii) a list of contributions in the form of goods or services and the value thereof received by the candidate in respect of his candidacy up to the date of such report,
- (iii) the name, address and contribution of each person who, up to the date of such report, made a contribution whether in the form of money, goods or services of more than \$100, and
- (iv) an itemized list of all expenses incurred by the candidate in respect of his candidacy up to the date of such report;
- (g) direct the clerk to submit to the council the information received by him pursuant to a by-law passed under this section; and
- (h) empower the clerk to prescribe forms for the purposes of a by-law passed under this section.

(3) Any moneys to be used for an election campaign by a candidate out of his own funds or out of the funds of the spouse of the candidate shall be deemed not to be a contribution for the purposes of a by-law passed under this section. Candidate's funds deemed not contribution

(4) A contribution made to a representative of a candidate shall be deemed to be a contribution to the candidate. Contributions to candidate's representative

(5) Every person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and is liable to a fine of not more than \$2,000. Contravention of by-law

26. This Act comes into force on the day it receives Royal Assent. Commencement

27. The short title of this Act is the *Municipal Elections Amendment Act, 1982*. Short title

An Act to amend the
Municipal Elections Act

1st Reading

May 20th, 1982

2nd Reading

July 5th, 1982

3rd Reading

July 6th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Certification of Titles Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. It is proposed that The Certification of Titles Assurance Fund be combined with The Land Titles Assurance Fund. The amendment to the definition of "assurance fund" reflects the proposed change.

SECTION 2. The Act will be divided into three parts. The existing sections 3 to 9 which relate to certification of titles by application will form Part I of the Act.

SECTION 3. The amendment clarifies that section 9 applies only to Part I of the Act.

SECTION 4. The proposed Part II authorizes the Director of Titles to certify the title to existing plans of subdivision as of the date of registration of the plan. The Director will be authorized to issue certificates on his own initiative and without holding a hearing if he is satisfied that the person who signed the plan as owner was the owner of the lands on the day the plan was registered. A certificate issued under this Part will eliminate the need for title searchers to search behind plans when searching title.

The Director will be authorized to hold hearings if he considers it necessary. Procedures similar to those for hearings under Part I will apply to hearings under Part II.

A person wrongfully deprived of land as a result of the operation of Part II will have the same rights against the assurance fund as a person who is wrongfully deprived of land under Part I.

BILL 120

1982

An Act to amend the Certification of Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Certification of Titles Act*, being chapter 61 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 - (a) "assurance fund" means The Land Titles Assurance Fund formed under section 57 of the *Land Titles Act*.
2. The said Act is amended by inserting after section 3 the following:

s. 1 (a),
re-enactedR.S.O. 1980,
c. 230Heading
inserted

PART I

CERTIFICATION ON APPLICATION

3. Section 9 of the said Act is amended by inserting after "examination" in the first line "under this Part".
4. The said Act is further amended by adding thereto the following Part:

s. 9,
amendedPart II,
(ss. 9a-9c)
enacted

PART II

CERTIFICATION OF EXISTING PLANS

9a. In this Part, "plan" means a plan of subdivision registered under the *Registry Act*.

Interpretation
R.S.O. 1980,
c. 445

9b.—(1) The Director may, of his own initiative and without holding a hearing, certify the title of the owner of land included in a plan, as of the date of registration of the plan.

Certification
of plans

(2) Before certifying the title of any land under this Part, the Director shall examine the title to the land and satisfy himself

Duty of
Director

that the person to be named in the certificate of title as owner was the owner of the land for which the certificate of title is to be issued, as of the date of registration of the plan.

Hearings
authorized

(3) Notwithstanding subsection (1), the Director may, for the purposes of complying with subsection (2), hold such hearings as he considers necessary, including hearings to determine the validity of any interest in the land of any person that appears to conflict with that of the person who signed the plan as owner, and, where the Director holds a hearing, the parties to the proceeding shall be such persons as are named in the notice of hearing.

Notice

(4) A notice of a hearing under subsection (3) shall be served on the persons named in the notice and on every person or person of a class designated by the regulations and where the hearing is to determine the validity of an interest in the land of a person that appears to conflict with that of the person who signed the plan as owner, the notice is sufficiently served if it is sent by registered mail addressed to the person at the address furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest.

R.S.O. 1980,
cc. 230, 445

Reference
to a judge

(5) The Director, instead of holding a hearing under subsection (3), may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the matter referred to him on the evidence before him or may direct the trial of an issue.

Copies to
be sent to
interested
parties

(6) Where the Director makes a decision under subsection (3), a copy of the decision shall be sent by first class mail or delivered by the Director to the parties to the proceeding and to every person who received notice of the hearing and appeared at the hearing.

Appeals

(7) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (3).

Disposition

9c.—(1) When the Director has complied with subsection 9b (2) and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land included in the plan.

Omission of
discharged
claims

(2) Where the Director is satisfied that a claim or interest that existed on the day the plan was registered has expired or has been

SECTION 5. Sections 10 to 15 will form Part III of the Act and will contain general provisions related to the certification of titles.

SECTION 6. The change in wording clarifies that the person named in a certificate of title was the owner as of the time set out in the certificate.

SECTION 7. The mandatory payment into the assurance fund will be eliminated and The Certification of Titles Assurance Fund and The Land Titles Assurance Fund will be combined into one fund. The re-enacted subsection 12 (1) has the same effect as the present subsection 12 (8). The proposed subsection 12 (2) ensures the continued effectiveness of bonds and covenants previously given.

SECTION 8. The proposed subsection 13 (3) provides that the procedures established under the *Land Titles Act* for applying for compensation out of the assurance fund apply to claims under the *Certification of Titles Act*.

SECTION 9. The proposed section 13a will enable the Director to register a notice on title if he becomes aware of a possible error in a certificate of title.

The proposed section 13b provides a mechanism for the correction of errors in certificates of title and is similar in effect to section 157 of the *Land Titles Act*.

discharged or for any other reason no longer affects the land, the Director may omit the claim or interest from the certificate of title.

5. The said Act is further amended by inserting before section 10 the following: Heading inserted

PART III

GENERAL

6. Section 11 of the said Act is amended by striking out "is" in the fourth line and inserting in lieu thereof "was". s. 11, amended

- 7.—(1) Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) The Director may require an applicant under Part I to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper. Indemnification of assurance fund

(2) Every bond and covenant to indemnify The Certification of Titles Assurance Fund given under a predecessor of subsection (1) shall be deemed to be a bond or covenant, as the case may be, to indemnify the assurance fund. Previous bonds and covenants

- (2) The Accountant of the Supreme Court shall, as soon as practicable after this Act receives Royal Assent, Transfer of funds

(a) refund to an applicant all amounts paid after the 28th day of February, 1982 by the applicant under subsection 12 (2) of the *Certification of Titles Act* as that subsection read on that day; and R.S.O. 1980, c. 61

(b) after deducting an amount sufficient to pay the refunds required by clause (a), transfer the amount standing to the credit of The Certification of Titles Assurance Fund to The Land Titles Assurance Fund Account.

8. Subsections 13 (3) to (10) of the said Act are repealed and the following substituted therefor: s. 13 (3), re-enacted;
s. 13 (4-10), repealed

(3) Section 26, subsections 60 (5) to (12), section 61 and subsection 161 (3) of the *Land Titles Act* apply, with necessary modifications, to claims for compensation under this section. Applications for compensation
R.S.O. 1980, c. 230

9. The said Act is further amended by adding thereto the following sections: ss. 13a, 13b, enacted

Notice of
possible
error

13a. Where the Director becomes aware of a possible error in a certificate of title, he may give notice of the possible error by registering a notice in the prescribed form and the notice gives notice of the possible error to all persons until the notice is deleted from the abstract index by the Director.

Amendment of
certificates

13b.—(1) Subject to the regulations, the Director of his own initiative or on the application of any interested person may, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and omissions in any certificate of title by issuing an amendment to the certificate of title.

Idem

(2) The Director shall, in correcting a certificate of title, correct it in the manner that he considers will do the least possible injury to any person affected by the correction.

Copies of
decision

(3) Where the Director makes a decision under subsection (1),

(a) on the application of an interested person; or

(b) after notifying the interested persons,

a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and the persons who received the notice.

Appeals

(4) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (1).

Registration of
amendment

(5) An amendment to a certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate.

Effect of
registration

(6) Upon registration under subsection (5), an amendment to a certificate of title takes effect in accordance with the terms set out in the amendment and is conclusive that every notice, publication, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act.

Claim against
fund

(7) A person injuriously affected by an amendment to a certificate of registration is entitled to recover what is just by way of compensation out of the assurance fund under section 13, as if he were a person wrongfully deprived of an interest in land.

s. 15,
amended

10. Section 15 of the said Act is amended by adding thereto the following clause:

(aa) designating persons or classes of persons to whom notice of a hearing under subsection 9b (3) shall be

SECTION 10. The proposed amendment to section 15 provides additional regulation-making powers and is complementary to the proposed subsection 9*b* (4).

given and specifying the manner in which notice may be given.

Commence-
ment

11.—(1) This Act, except sections 1, 7 and 8, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 7 and 8 shall be deemed to have come into force on the 1st day of March, 1982.

Short title

12. The short title of this Act is the *Certification of Titles Amendment Act, 1982*.

An Act to amend the
Certification of Titles Act

1st Reading

May 20th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 120

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Certification of Titles Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

BILL 120

1982

An Act to amend the Certification of Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Certification of Titles Act*, being chapter 61 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (a),
re-enacted

(a) "assurance fund" means The Land Titles Assurance Fund formed under section 57 of the *Land Titles Act*. R.S.O. 1980,
c. 230

2. The said Act is amended by inserting after section 3 the following: Heading
inserted

PART I

CERTIFICATION ON APPLICATION

3. Section 9 of the said Act is amended by inserting after "examination" in the first line "under this Part". s. 9,
amended
4. The said Act is further amended by adding thereto the following Part: Part II,
(ss. 9a-9c)
enacted

PART II

CERTIFICATION OF EXISTING PLANS

9a. In this Part, "plan" means a plan of subdivision registered under the *Registry Act*. Interpretation
R.S.O. 1980,
c. 445

9b.—(1) The Director may, of his own initiative and without holding a hearing, certify the title of the owner of land included in a plan, as of the date of registration of the plan. Certification
of plans

(2) Before certifying the title of any land under this Part, the Director shall examine the title to the land and satisfy himself Duty of
Director

that the person to be named in the certificate of title as owner was the owner of the land for which the certificate of title is to be issued, as of the date of registration of the plan.

Hearings
authorized

(3) Notwithstanding subsection (1), the Director may, for the purposes of complying with subsection (2), hold such hearings as he considers necessary, including hearings to determine the validity of any interest in the land of any person that appears to conflict with that of the person who signed the plan as owner, and, where the Director holds a hearing, the parties to the proceeding shall be such persons as are named in the notice of hearing.

Notice

(4) A notice of a hearing under subsection (3) shall be served on the persons named in the notice and on every person or person of a class designated by the regulations and where the hearing is to determine the validity of an interest in the land of a person that appears to conflict with that of the person who signed the plan as owner, the notice is sufficiently served if it is sent by registered mail addressed to the person at the address furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest.

R.S.O. 1980,
cc. 230, 445

Reference
to a judge

(5) The Director, instead of holding a hearing under subsection (3), may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the matter referred to him on the evidence before him or may direct the trial of an issue.

Copies to
be sent to
interested
parties

(6) Where the Director makes a decision under subsection (3), a copy of the decision shall be sent by first class mail or delivered by the Director to the parties to the proceeding and to every person who received notice of the hearing and appeared at the hearing.

Appeals

(7) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (3).

Disposition

9c.—(1) When the Director has complied with subsection 9b (2) and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land included in the plan.

Omission of
discharged
claims

(2) Where the Director is satisfied that a claim or interest that existed on the day the plan was registered has expired or has been

discharged or for any other reason no longer affects the land, the Director may omit the claim or interest from the certificate of title.

5. The said Act is further amended by inserting before section 10 the following: Heading inserted

PART III

GENERAL

6. Section 11 of the said Act is amended by striking out "is" in the fourth line and inserting in lieu thereof "was". s. 11, amended

- 7.—(1) Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) The Director may require an applicant under Part I to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper. Indemnification of assurance fund

(2) Every bond and covenant to indemnify The Certification of Titles Assurance Fund given under a predecessor of subsection (1) shall be deemed to be a bond or covenant, as the case may be, to indemnify the assurance fund. Previous bonds and covenants

- (2) The Accountant of the Supreme Court shall, as soon as practicable after this Act receives Royal Assent, Transfer of funds

(a) refund to an applicant all amounts paid after the 28th day of February, 1982 by the applicant under subsection 12 (2) of the *Certification of Titles Act* as that subsection read on that day; and R.S.O. 1980, c. 61

(b) after deducting an amount sufficient to pay the refunds required by clause (a), transfer the amount standing to the credit of The Certification of Titles Assurance Fund to The Land Titles Assurance Fund Account.

8. Subsections 13 (3) to (10) of the said Act are repealed and the following substituted therefor: s. 13 (3), re-enacted; s. 13 (4-10), repealed

(3) Section 26, subsections 60 (5) to (12), section 61 and subsection 161 (3) of the *Land Titles Act* apply, with necessary modifications, to claims for compensation under this section. Applications for compensation R.S.O. 1980, c. 230

9. The said Act is further amended by adding thereto the following sections: ss. 13a, 13b, enacted

Notice of
possible
error

13a. Where the Director becomes aware of a possible error in a certificate of title, he may give notice of the possible error by registering a notice in the prescribed form and the notice gives notice of the possible error to all persons until the notice is deleted from the abstract index by the Director.

Amendment of
certificates

13b.—(1) Subject to the regulations, the Director of his own initiative or on the application of any interested person may, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and omissions in any certificate of title by issuing an amendment to the certificate of title.

Idem

(2) The Director shall, in correcting a certificate of title, correct it in the manner that he considers will do the least possible injury to any person affected by the correction.

Copies of
decision

(3) Where the Director makes a decision under subsection (1),

(a) on the application of an interested person; or

(b) after notifying the interested persons,

a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and the persons who received the notice.

Appeals

(4) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (1).

Registration of
amendment

(5) An amendment to a certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate.

Effect of
registration

(6) Upon registration under subsection (5), an amendment to a certificate of title takes effect in accordance with the terms set out in the amendment and is conclusive that every notice, publication, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act.

Claim against
fund

(7) A person injuriously affected by an amendment to a certificate of registration is entitled to recover what is just by way of compensation out of the assurance fund under section 13, as if he were a person wrongfully deprived of an interest in land.

s. 15,
amended

10. Section 15 of the said Act is amended by adding thereto the following clause:

(aa) designating persons or classes of persons to whom notice of a hearing under subsection 9b (3) shall be

given and specifying the manner in which notice may be given.

Commence-
ment

11.—(1) This Act, except sections 1, 7 and 8, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 7 and 8 shall be deemed to have come into force on the 1st day of March, 1982.

Short title

12. The short title of this Act is the *Certification of Titles Amendment Act, 1982*.

An Act to amend the
Certification of Titles Act

1st Reading

May 20th, 1982

2nd Reading

June 29th, 1982

3rd Reading

June 30th, 1982

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Workmen's Compensation Act

MR. HAGGERTY

EXPLANATORY NOTE

The purpose of the Bill is to broaden the criteria used by the Workmen's Compensation Board in assessing the impairment of earning capacity resulting from an injury that causes permanent disability. The Act currently states that the impairment of earning capacity shall be estimated from the nature and degree of the injury. The Board is authorized under the Act to compile a rating schedule of percentages of impairment of earning capacity for specified injuries that may be used as a guide in determining the compensation payable in permanent disability cases. The Bill repeals the provision that authorizes the Board to compile a rating schedule and directs the Board to estimate the impairment of earning capacity in light of all the circumstances of each individual case.

An Act to amend the Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 43 (1) of the *Workmen's Compensation Act*, being s. 43 (1), chapter 539 of the Revised Statutes of Ontario, 1980 is re-enacted repealed and the following substituted therefor:

(1) Where permanent disability results from the injury, the impairment of earning capacity of the employee shall be estimated in light of all the circumstances of the particular case, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed.

(1a) In considering the circumstances of the case, the Board shall have particular regard to, Considerations

- (a) the extent of the physical disability;
- (b) the age of the employee;
- (c) the level of skills and education achieved by the employee;
- (d) the language spoken by the employee;
- (e) any emotional problems suffered by the employee as a result of the injury;
- (f) the state of the employment market, both generally and in the local community in which the employee resides;
- (g) the potential for the employee to rehabilitate himself through vocational rehabilitation;

(h) any other factor that is relevant to determining the employee's ability to earn income after the accident in comparison with the employee's ability to earn income before the accident.

s. 43 (3),
repealed

(2) Subsection 43 (3) of the said Act is repealed.

s. 43 (5),
repealed

(3) Subsection 43 (5) of the said Act is repealed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Workmen's Compensation Amendment Act, 1982*.

An Act to amend the
Workmen's Compensation Act

1st Reading

May 20th, 1982

2nd Reading

3rd Reading

MR. HAGGERTY

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to provide for Class Actions

MR. SWART

EXPLANATORY NOTE

The purpose of this Bill is to provide a statutory procedure whereby one or more persons may sue a defendant in the form of a class action.

The Bill is designed to achieve this purpose by permitting a person who wishes to sue on behalf of a class to apply for a court order authorizing the class action. Once the order is obtained, the action proceeds as a class action, and the final judgment binds all members of the class, except those who have been excluded, as well as the parties to the action.

BILL 122

1982

An Act to provide for Class Actions

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Court" means the Supreme Court of Ontario. Interpretation

2.—(1) Where a person has a cause of action involving questions of law or fact that are common to a class of persons, he may commence the action as representative party on behalf of the class. Class action

(2) An action under subsection (1) shall not be maintained as a class action unless the person or persons suing as representative party has obtained an order of the Court permitting the action to proceed as a class action. Order required

3.—(1) A representative party may apply to the Court for an order referred to in section 2, and the Court may make the order where it is satisfied that, Where order to be granted

(a) the claims of the representative party are typical of the claims of the class;

(b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;

(c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

(d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court shall not refuse to make an order under this section on the ground only that, Where order not to be denied

- (a) the relief claimed in the action includes a claim for damages;
- (b) the relief claimed in the action arises out of or relates to separate contracts or transactions made with or entered into between members of the class and the defendant; or
- (c) any damages claimed for members of the class will require individual action.

Content
of order

(3) An order under subsection (1) shall,

- (a) define the class on whose behalf the claim is brought;
- (b) describe briefly the nature of the claim made and of the relief sought;
- (c) state the questions of law or fact that are common to the class; and
- (d) specify a date before which members of the class may exclude themselves from the class.

Variation
of order

(4) An order made under this section may be varied from time to time or rescinded by the Court if it thinks it fit and just to do so before judgment in the action.

Notice of
class action

4.—(1) Where an order is made under section 3, the Court may direct that notice in manner and form satisfactory to the Court be given to the members of the class or any of them advising them of the proceedings and of the date before which members of the class may exclude themselves from the class.

Statement
of desire
for exclu-
sion from
the class

(2) Where a person has notice that he is a member of a class on behalf of which a representative party is suing he shall be excluded from the class by filing with the Court a statement of his desire to be excluded, in writing signed by him prior to the date specified in the order under section 3, and may be excluded, in the discretion of the Court, where the statement is filed subsequent to the date specified in the order and prior to judgment.

Judgment

5.—(1) The judgment in a class action constitutes a final judgment between each member of the class who was not excluded under section 4 and each person against whom the class action was taken in respect of those matters set out in the order under section 3.

(2) Notwithstanding anything in subsection (1), the Court ^{Idem} may provide in the judgment for subsequent determination of the amount of compensation for loss or damage suffered by members of the class or any other issues.

6. An action maintained as a class action shall not be discontinued, settled or dismissed for want of prosecution without the approval of the Court, and, if the Court determines that the interests of the class may be substantially affected by such discontinuance, settlement or dismissal, the Court may direct that notice in manner, form and content satisfactory to the Court shall be given. ^{Discontinuance, settlement, etc.}

7. This Act comes into force on the day it receives Royal ^{Commencement} Assent.

8. The short title of this Act is the *Class Actions Act, 1982*. ^{Short title}

An Act to provide for Class Actions

1st Reading

May 21st, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Assessment Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to exempt home improvements from assessment under the *Assessment Act* if the improvements do not enlarge the living space of the home and if the cost of materials for the improvements does not exceed \$10,000.

BILL 123

1982

An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:
 22. Improvements made to residential premises by an owner, for the period of time that the owner owns the premises, if the improvements do not enlarge the living space and the cost of materials for the improvements does not exceed \$10,000.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Assessment Amendment Act, 1982*.

s. 3,
amendedResidential
improvementsCommence-
ment

Short title

An Act to amend the Assessment Act

1st Reading

May 21st, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to establish Technology Centres

THE HON. G. W. WALKER
Minister of Industry and Trade

EXPLANATORY NOTE

The Bill provides for the creation of technology centres whose mandate is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce.

BILL 124

1982

An Act to establish Technology Centres

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Directors of a Centre;
- (b) "Centre" means a corporation established under section 3;
- (c) "industrial property" means a patent of invention, copyright, industrial design or other intellectual or industrial property right, whether existing within or outside Ontario, and includes an application and a right to make an application for industrial property;
- (d) "Minister" means the Minister of Industry and Trade or such other member of the Executive Council as the Lieutenant Governor in Council designates to administer this Act.

2. The *Corporations Act* does not apply to a Centre.

R.S.O. 1980,
c. 95
does not apply

3.—(1) The Lieutenant Governor in Council may make regulations,

Creation of
Centres

- (a) establishing corporations without share capital as Centres;
- (b) subject to this Act, providing for the constitutions, management and operation of Centres;
- (c) specifying the industrial, commercial or technological sector or sectors in which a Centre shall pursue its object;

- (d) governing transfers of the assets, rights, obligations and liabilities of Centres to Her Majesty in right of Ontario or to an agency of the Crown;
- (e) requiring the approval of the Lieutenant Governor in Council to the exercise of any or all of the powers of any Centre;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, or to implement the object of Centres.

Sunset provisions

(2) Where the Lieutenant Governor in Council establishes a Centre under clause (1) (a), the Lieutenant Governor in Council shall prescribe its operational period.

Idem

(3) The Lieutenant Governor in Council may by regulation extend the operational period of a Centre from time to time.

Winding up

(4) A Centre shall be wound up at the expiry of its operational period or extended operational period, as the case may be, and in winding up the assets of the Centre shall be,

- (a) liquidated or sold as a going concern and the proceeds paid into the Consolidated Revenue Fund; or
- (b) transferred to Her Majesty in right of Ontario or to an agency of the Crown,

as the Minister may direct.

Board of Directors

4.—(1) A Centre shall have a Board of Directors consisting of not fewer than five and not more than fifteen members who shall be appointed by the Lieutenant Governor in Council for a term of not more than three years.

Idem

(2) The Lieutenant Governor in Council shall designate one of the directors as Chairman of the Board.

Remuneration

(3) A Centre may pay those of its directors who are not officers in the public service of Ontario such remuneration and expense allowance as is fixed from time to time by the Lieutenant Governor in Council.

Members not disqualified
R.S.O. 1980,
c. 235

(4) Despite the *Legislative Assembly Act*, a member of the Assembly who is appointed a director of a Centre is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

(5) Where a vacancy occurs on the Board, the Lieutenant Governor in Council may appoint a person to serve the remainder of the term. Vacancies

5.—(1) The Chairman shall preside at all meetings of a Board and, in the Chairman's absence or if the office of Chairman is vacant, a director present at the meeting who is chosen to act by the directors present at the meeting has all the powers and duties of the Chairman. Chairman

(2) A Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Centre. By-laws

(3) A by-law or resolution in writing signed by all the directors of a Centre is as valid as if it had been passed at a meeting of the Board. Idem

6. Upon consultation with a Board, the Minister shall appoint a chief executive officer of the Centre who shall have such powers and duties as the Minister and the Board prescribe from time to time. Chief executive officer

7. The affairs of a Centre shall be managed and supervised by its Board, in accordance with the policies of the Government of Ontario relating to technology and innovation, but the Board shall comply with any directions given to it from time to time in writing by the Lieutenant Governor in Council or the Minister. Duties of Board

8. A Centre shall indemnify a director or officer of the Centre, a former director or officer of the Centre, and such person's heirs and legal representatives, against any liability arising from the person's performance of his or her duties if the person acted honestly and in good faith with a view to the best interests of the Centre. Indemnification of directors and officers

9.—(1) The object of each Centre is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce. Object

(2) A Centre, for the object set out in subsection (1), may, Powers

- (a) adapt and demonstrate technology applicable to industry and commerce;
- (b) disseminate and encourage the dissemination of technical and market information;
- (c) acquire, develop and deal with industrial property, licences, inventions, processes and the royalties and benefits that arise therefrom;

- (d) advise the Minister on issues related to the application of technology and the granting of assistance to promote the application of technology;
- (e) buy, hold, own, hire, maintain, control, take, lease, sell, assign, exchange, transfer, manage, improve, develop or otherwise deal in and dispose of, either absolutely or by way of security or otherwise, any property real and personal and any right or privilege that, in the opinion of the Board, is necessary or convenient for the purposes of the Centre;
- (f) draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading and other negotiable or transferable instruments;
- (g) temporarily invest any surplus moneys not immediately required for the object of the Centre in,
 - (i) securities issued by or guaranteed as to principal and interest by the Province of Ontario, any other province of Canada, or Canada,
 - (ii) guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*,
 - (iii) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by a bank named in Schedule A or B to the *Bank Act* (Canada), and
 - (iv) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*;
- (h) contract and sue and be sued in its own name;
- (i) carry on its affairs or identify itself to the public under a name and style other than its corporate name;
- (j) enter into partnership or into any arrangement for profit sharing, union of interest, co-operation, joint venture, reciprocal concession or any similar arrangement with any person carrying on or engaged in any business or transaction that the Centre is authorized to carry on or engage in or that is capable of being carried on or engaged in so as to further the object of the Centre;

R.S.O. 1980,
c. 249

1980-81,
c. 40 (Can.)

R.S.O. 1980,
c. 102

- (k) do anything incidental or conducive to the attainment of the object of the Centre, whether similar in nature to the powers enumerated in clauses (a) to (j) or otherwise.

10.—(1) No act of a Centre, including any transfer of property to or by a Centre, is invalid by reason only that the act is not authorized by this Act. Rights preserved

(2) No person is affected by or is deemed to have notice of the contents of a document concerning a Centre by reason only that the document is available to the public. No deemed notice

(3) A Centre or a guarantor of an obligation of a Centre may not assert against a person dealing with the Centre or with a person who has acquired rights from the Centre that, Indoor management rule

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(b) a person held out by a Centre as a director, an officer or an agent of a Centre has not been duly appointed or has no authority to exercise the powers and perform the duties that are the customary business of the Centre or usual for such director, officer or agent;

(c) a document issued by any director, officer or agent of a Centre with actual or usual authority to issue the document is not valid or not genuine,

except where the person has or ought to have, by virtue of a position with or relationship to the Centre, knowledge to that effect.

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(2) A Centre may make use of such services and facilities, including the services of a public servant on secondment, as are provided to it by a ministry, board, commission or agency of the Government of Ontario. Use of Government facilities

12.—(1) A Centre shall have a seal, which shall be adopted by a resolution or by-law of the Board. Seal

(2) The fiscal year of a Centre begins on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal year

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15. A Centre is a Crown agency within the meaning of the *Crown Agency Act*.

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17. The short title of this Act is the *Technology Centres Act, 1982*.

An Act to establish Technology Centres

1st Reading

May 25th, 1982

2nd Reading

3rd Reading

THE HON. G. W. WALKER
Minister of Industry and Trade

(*Government Bill*)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to establish Technology Centres

THE HON. G. W. WALKER
Minister of Industry and Trade

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill provides for the creation of technology centres whose mandate is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce.

BILL 124

1982

An Act to establish Technology Centres

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Directors of a Centre;
- (b) "Centre" means a corporation established under section 3;
- (c) "industrial property" means a patent of invention, copyright, industrial design or other intellectual or industrial property right, whether existing within or outside Ontario, and includes an application and a right to make an application for industrial property;
- (d) "Minister" means the Minister of Industry and Trade or such other member of the Executive Council as the Lieutenant Governor in Council designates to administer this Act.

2. The *Corporations Act* does not apply to a Centre.

R.S.O. 1980,
c. 95
does not apply

3.—(1) The Lieutenant Governor in Council may make regulations,

Creation of
Centres

- (a) establishing corporations without share capital as Centres;
- (b) subject to this Act, providing for the constitutions, management and operation of Centres;
- (c) specifying the industrial, commercial or technological sector or sectors in which a Centre shall pursue its object;

- (d) governing transfers of the assets, rights, obligations and liabilities of Centres to Her Majesty in right of Ontario or to an agency of the Crown;
- (e) requiring the approval of the Lieutenant Governor in Council to the exercise of any or all of the powers of any Centre;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, or to implement the object of Centres.

Sunset
provisions

(2) Where the Lieutenant Governor in Council establishes a Centre under clause (1) (a), the Lieutenant Governor in Council shall prescribe its operational period.

Idem

(3) The Lieutenant Governor in Council may by regulation extend the operational period of a Centre from time to time.

Winding up

(4) A Centre shall be wound up at the expiry of its operational period or extended operational period, as the case may be, and in winding up the assets of the Centre shall be,

(a) liquidated or sold as a going concern and the proceeds paid into the Consolidated Revenue Fund; or

(b) transferred to Her Majesty in right of Ontario or to an agency of the Crown,

as the Minister may direct.

Board of
Directors

4.—(1) A Centre shall have a Board of Directors consisting of not fewer than five and not more than fifteen members who shall be appointed by the Lieutenant Governor in Council for a term of not more than three years.

Idem

(2) The Lieutenant Governor in Council shall designate one of the directors as Chairman of the Board.

Remuneration

(3) A Centre may pay those of its directors who are not officers in the public service of Ontario such remuneration and expense allowance as is fixed from time to time by the Lieutenant Governor in Council.

Members not
disqualified
R.S.O. 1980,
c. 235

(4) Despite the *Legislative Assembly Act*, a member of the Assembly who is appointed a director of a Centre is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

(5) Where a vacancy occurs on the Board, the Lieutenant Governor in Council may appoint a person to serve the remainder of the term. Vacancies

5.—(1) The Chairman shall preside at all meetings of a Board and, in the Chairman's absence or if the office of Chairman is vacant, a director present at the meeting who is chosen to act by the directors present at the meeting has all the powers and duties of the Chairman. Chairman

(2) A Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Centre. By-laws

(3) A by-law or resolution in writing signed by all the directors of a Centre is as valid as if it had been passed at a meeting of the Board. Idem

6. Upon consultation with a Board, the Minister shall appoint a chief executive officer of the Centre who shall have such powers and duties as the Minister and the Board prescribe from time to time. Chief executive officer

7. The affairs of a Centre shall be managed and supervised by its Board, in accordance with the policies of the Government of Ontario relating to technology and innovation, but the Board shall comply with any directions given to it from time to time in writing by the Lieutenant Governor in Council or the Minister. Duties of Board

8. A Centre shall indemnify a director or officer of the Centre, a former director or officer of the Centre, and such person's heirs and legal representatives, against any liability arising from the person's performance of his or her duties if the person acted honestly and in good faith with a view to the best interests of the Centre. Indemnification of directors and officers

9.—(1) The object of each Centre is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce. Object

(2) A Centre, for the object set out in subsection (1), may, Powers

- (a) adapt and demonstrate technology applicable to industry and commerce;
- (b) disseminate and encourage the dissemination of technical and market information;
- (c) acquire, develop and deal with industrial property, licences, inventions, processes and the royalties and benefits that arise therefrom;

- (d) advise the Minister on issues related to the application of technology and the granting of assistance to promote the application of technology;
- (e) buy, hold, own, hire, maintain, control, take, lease, sell, assign, exchange, transfer, manage, improve, develop or otherwise deal in and dispose of, either absolutely or by way of security or otherwise, any property real and personal and any right or privilege that, in the opinion of the Board, is necessary or convenient for the purposes of the Centre;
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BILL 124

2ND SESSION, 32ND LEGISLATURE, ONTARIO
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Minister of Industry and Trade

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

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1st Reading

May 25th, 1982

2nd Reading

June 30th, 1982

3rd Reading

July 6th, 1982

THE HON. G. W. WALKER
Minister of Industry and Trade

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Children's Law Reform Act

THE HON. R. MCMURTRY
Attorney General

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EXPLANATORY NOTE

The Bill adds Part III to the Act. This new Part deals with custody of and access to children. The Part also deals with guardianship of property of children and incorporates the Convention on the Civil Aspects of International Child Abduction.

BILL 125

1982

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Act,
amended

PART III

CUSTODY, ACCESS AND GUARDIANSHIP

INTERPRETATION

18.—(1) In this Part,

Interpre-
tation

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 72;
- (b) "extra-provincial order" means an order, or that part of an order of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child.

(2) A reference in this Part to a child is a reference to the child while a minor. Child

Purposes

19. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

CUSTODY AND ACCESS

Father and
mother
entitled to
custody

20.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights
and
respon-
sibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child, including,

- (a) the right to care and control of the child;
- (b) the right to direct the education and moral and religious training of the child,

in the best interests of the child.

Authority
to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where
parents
separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

(5) The entitlement to access to a child includes the right to make reasonable inquiries and to be given information as to the health, education and welfare of the child. Access includes certain information

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

21.—(1) A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

(2) No proceeding under this Part shall be commenced in a provincial court (family division) until after a date to be named by proclamation of the Lieutenant Governor. Exception

22.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

- (a) with both parents;
- (b) where the parents are living separate and apart, with one parent under a separation agreement or with the implied consent of the other or under a court order; or
- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious harm to child

23. Notwithstanding sections 22 and 42, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
 - (i) the child remains in the custody of the person legally entitled to custody of the child,
 - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
 - (iii) the child is removed from Ontario.

Merits of application for custody or access

24.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best interests of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
 - (i) each person entitled to or claiming custody of or access to the child,
 - (ii) other members of the child's family who reside with the child, and

- (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the capacity and disposition of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of any proposed custodial home as a family unit; and
- (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody of or access to a child unless the conduct is relevant to the capacity of the person to act as a parent of a child. ^{Past conduct}

25. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. ^{Declining jurisdiction}

26.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. ^{Delay}

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection (1), the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. ^{Directions}

(3) Where the court fixes a date under subsection (2), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. ^{Early date}

Effect of
divorce
proceedings
R.S.C. 1970,
c. D-8

27. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court.

CUSTODY AND ACCESS—ORDERS

Powers
of court

28. The court to which an application is made under section 21,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order
varying
an order

29. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment
of needs of
child

30.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When
order
may be
made

(2) An order may be made under subsection (1) on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent
to act

(4) The court shall not appoint a person under subsection (1) unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance
for
assessment

(5) In an order under subsection (1), the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection (1) shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection (7) is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection (1) to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection (1). Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection (1) where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection (1) does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

31.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection (1) unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of
mediator

(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.

Form of
report

(4) Before entering into mediation on the matter, the parties shall decide whether,

- (a) the mediator is to file a full report on the mediation including anything that the mediator considers relevant to the matter in mediation; or
- (b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.

Filing of
report

(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection (4).

Copies of
report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.

Admissions
made in
the course
of mediation

(7) Where the parties have decided that the mediator's report is to be in the form described in clause (4) (b), evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection (1).

Fees and
expenses

(8) The court shall require the parties to pay the fees and expenses of the mediator.

Idem,
proportions
or amounts

(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.

Idem,
serious
financial
hardship

(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.

Official
Guardian's
report

32. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 1 of the *Matrimonial Causes Act* shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.

R.S.O. 1980,
c. 258

Further
evidence

33.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection (1) may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause. Cost of obtaining evidence

34.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 33 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court. Referral to court

(2) A court to which a request is referred by the Attorney General under subsection (1) shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request. Obtaining evidence

CUSTODY AND ACCESS—ENFORCEMENT

35.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body. Supervision of custody or access

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection (1) unless the person, society or body has consented to act as supervisor. Consent to act

36. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate. Order restraining harassment

37.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to Order where child unlawfully withheld

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to
locate and
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application
without
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between sunrise and sunset unless the court, in the order, authorizes entry and search at another time.

Expiration
of order

(7) An order made under subsection (2) expires six months after the day on which it was made, unless the order specifically provides otherwise.

(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time. When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3). Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3). Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following: Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3). Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate. Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order. Safekeeping

Directions

(7) In an order under subsection (3), a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt
of orders
of provincial
court (family
division)

39.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions
of
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information
as to
address

40.—(1) Where, upon application to a court, it appears to the court that,

- (a) for the purpose of bringing an application in respect of custody or access under this Part; or
- (b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause (b) is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause (b) is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

Exception

(2) A court shall not make an order on an application under subsection (1) where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance
with order

(3) The giving of information in accordance with an order under subsection (1) shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section
binds Crown

(4) This section binds the Crown in right of Ontario.

CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

41. Upon application, a court,

Interim
powers of
court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario; or
- (b) that may not exercise jurisdiction under section 22 or that has declined jurisdiction under section 25 or 43,

may do any one or more of the following:

- 1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.
- 2. Stay the application subject to,
 - i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
 - ii. such other conditions as the court considers appropriate.
- 3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

42.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement
of foreign
orders

- (a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;
- (b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

- (e) that, in accordance with section 22, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of
recognition
of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting
orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection (1) shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further
orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding
order,
material
change in
circumstances

43.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

(a) the child is habitually resident in Ontario at the commencement of the application for the order; or

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,

(iii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iv) that the child has a real and substantial connection with Ontario, and

(v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining
jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

44. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if, Superseding order, serious harm

(a) the child remains in the custody of the person legally entitled to custody of the child;

(b) the child is returned to the custody of the person entitled to custody of the child; or

(c) the child is removed from Ontario.

45. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person. True copy of extra-provincial order

46. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal. Court may take notice of foreign law

47.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section. Interpretation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection (3), the convention is in force in Ontario and the provisions thereof are law in Ontario. Convention on Civil Aspects of International Child Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with the *Legal Aid Act*. Exception
R.S.O. 1980, c. 234

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention. Central Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention. Application to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs Request to ratify convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

SCHEDULE

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

CHAPTER I—SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II—CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III—RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER IV—RIGHTS OF ACCESS

Article 21

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

CHAPTER V—GENERAL PROVISIONS

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI—FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

GUARDIANSHIP

48.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian for the child. Appointment of guardian

(2) A guardian for a child has charge of and is responsible for the care and management of the property of the child. Responsibility of guardian

49.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians for the child. Parents as guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian for the child. Parent and other person

More than
one guardian

(3) A court may appoint more than one guardian for a child.

Guardians
jointly
responsible

(4) Where more than one guardian is appointed for a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

50. In deciding an application for the appointment of a guardian for a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of
appointment

51. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment
of debt
due to
child

52.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian has been appointed for the child, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money
payable
under
judgment

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

Receipt for
payment

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian for the child.

Responsibility
for money
or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection (1) has the responsibility of a

guardian for the care and management of the money or personal property.

53. A guardian for a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

54. A guardian for a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

55. A guardian for a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

56.—(1) A court that appoints a guardian for a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection (1) does not apply where the court appoints a parent of a child as guardian for the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

57. Upon application by a married child, the court that appointed a guardian for the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

58.—(1) A guardian for a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian for a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

59. A notice of every application to a court for appointment of a guardian shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

DISPOSITION OF PROPERTY

60.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child

- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

Criteria

(2) An order shall be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.

Conditions

(3) An order under subsection (1) may be made subject to such conditions as the Supreme Court considers appropriate.

Limitation

(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.

Execution of documents

(5) The Supreme Court, where it makes an order under subsection (1), may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.

Directions

(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection (1).

Validity of documents

(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.

Liability

(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause (1) (c).

Order for maintenance where power of appointment in favour of children

61.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.

Idem

(2) An order may be made under subsection (1) whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

TESTAMENTARY CUSTODY AND GUARDIANSHIP

62.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian for a child may appoint by will one or more persons to be guardians for the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection (1) or (2) by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection (1), (2) or (3) is effective only, Limitation

(a) if the appointor is the only person entitled to custody of the child or who is the guardian for the child, as the case requires, on the day immediately before the appointment is to take effect; or

(b) if the appointor and any other person entitled to custody of the child or who is the guardian for the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians for a child by appointors who die as mentioned in clause (4) (b), only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

(6) No appointment under subsection (1), (2) or (3) is effective without the consent of the person appointed. Consent of appointee

(7) An appointment under subsection (1), (2) or (3) for custody or guardianship of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of or guardianship for the child within the ninety-day period, when the application is disposed of. Expiration of appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 21 or 48. Application or order under ss. 21, 48

(9) This section applies in respect of,

Application

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

PROCEDURE

Joinder of
proceedings

R.S.O. 1980,
c. 152

Nature
of order

Parties

63.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under the *Family Law Reform Act*, or in another proceeding.

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

Combining
of
applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 26.

Where
identity
of father
not known

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

Application
or response
by minor

64.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

Consent by
minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

65.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them. Child entitled to be heard

(2) The court may interview the child to determine the views and preferences of the child. Interview by court

(3) The interview shall be recorded. Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview. Counsel

66. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control. Where child is sixteen or more years old

67. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time. All proceedings in one court

68. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing. Closed hearings

69.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child. Consent orders

(2) Any matter provided for in this Part and in a domestic contract as defined in the *Family Law Reform Act* may be incorporated in an order made under this Part. Incorporation of contract in order
R.S.O. 1980, c. 152

70. Where a domestic contract as defined in the *Family Law Reform Act* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of the *Family Law Reform Act*. Part subject to contracts

71. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction. Jurisdiction of Supreme Court

Surrogate
court

72. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made
under
R.S.O. 1980,
c. 292

73. An application to vary an order made by a surrogate court under the *Minors Act* shall be made to a county or district court.

Place where
application
to be made

74.—(1) Subject to subsections (2) and (3), an application under this Part in a provincial court (family division) or a county or district court shall be made in the judicial district in which the child resides.

Idem,
application
for interim
order

(2) An application for an interim order shall be made to the court in which the original proceeding was taken.

Idem,
application
to vary
order

(3) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim
order

75. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from
provincial
court
(family
division)

76. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order
effective
pending
appeal

77. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of
construction

78.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship for the child.

Application

(2) Subsection (1) applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

Application
of Part to
order under
R.S.O. 1980,
cc. 292, 152;
R.S.O. 1970,
c. 128

79. This Part applies to an outstanding order for custody or guardianship of or access to a child made under the *Minors Act* (repealed by section 4 of the *Children's Law Reform Amendment Act, 1981*), the *Family Law Reform Act* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part.

COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 22 of subsection 1 (1) of the *Education Act*, being chapter 129, is repealed and the following substituted therefor: R.S.O. 1980,
c. 129,
s. 1 (1), par.
22,
re-enacted

22. “guardian” means a person who has lawful custody of a child, other than the parent of the child.

- (2) Section 17 of the said Act is amended by striking out “in law” in the second line and inserting in lieu thereof “in section 1” and by striking out “or legal custody” in the fifth line. s. 17,
amended

- 3.—(1) Subsection 20 (1) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by striking out “or custody” in the third line. R.S.O. 1980,
c. 152,
s. 20 (1),
amended

- (2) Clause 26 (1) (b) of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b),
amended

- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35,
re-enacted

35. An application for custody or access under the *Children's Law Reform Act* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of
actions
R.S.O. 1980,
c. 68

- 4.—(1) The *Minors Act*, being chapter 292 of the Revised Statutes of Ontario, 1980, is repealed. R.S.O. 1980,
c. 292,
repealed

- (2) Where an application is made under the *Minors Act* or under section 35 of the *Family Law Reform Act* before subsection (1) comes into force and no evidence has been heard in the proceeding before subsection (1) comes into force, other than in respect of an interim order, the application shall be deemed to be an application under the *Children's Law Reform Act*, subject to such directions as the court considers appropriate. Application
of subs. (1)
to proceeding
already
commenced

- (3) Where an application referred to in subsection (2) is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate. Where
proceeding
in surrogate
court

R.S.O. 1980,
c. 515

- 5.** The Schedule to the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following:

Sched.,
amended

*"Children's Law
Reform Act*

All, except sections 67 and 68".

Commence-
ment

- 6.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 7.** The short title of this Act is the *Children's Law Reform Amendment Act, 1982*.

An Act to amend the
Children's Law Reform Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Children's Law Reform Act

THE HON. R. MCMURTRY
Attorney General

(Reprinted as amended by the Administration of Justice Committee)

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EXPLANATORY NOTE

The Bill adds Part III to the Act. This new Part deals with custody of and access to children. The Part also deals with guardianship of property of children and incorporates the Convention on the Civil Aspects of International Child Abduction.

BILL 125

1982

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: <sup>Act,
amended</sup>

PART III

CUSTODY, ACCESS AND GUARDIANSHIP

INTERPRETATION

18.—(1) In this Part,

Interpre-
tation

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 72;
- (b) "extra-provincial order" means an order, or that part of an order, of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child;
- (d) "separation agreement" means an agreement that is a valid separation agreement under Part IV of the *Family Law Reform Act*. <sup>R.S.O. 1980,
c. 152</sup>

(2) A reference in this Part to a child is a reference to the child while a minor.

Purposes

19. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

CUSTODY AND ACCESS

Father and
mother
entitled to
custody

20.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights
and
respon-
sibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child and must exercise those rights and responsibilities in the best interests of the child.

Authority
to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where
parents
separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

Access

(5) The entitlement to access to a child includes the right to visit with and be visited by the child and the same right as a parent to make inquiries and to be given information as to the health, education and welfare of the child.

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

21. A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

22.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

(a) with both parents;

(b) where the parents are living separate and apart, with one parent under a separation agreement or with the consent, implied consent or acquiescence of the other or under a court order; or

- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious harm to child

23. Notwithstanding sections 22 and 42, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
 - (i) the child remains in the custody of the person legally entitled to custody of the child,
 - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
 - (iii) the child is removed from Ontario.

Merits of application for custody or access

24.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best interests of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the needs and circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
 - (i) each person entitled to or claiming custody of or access to the child,
 - (ii) other members of the child's family who reside with the child, and
 - (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;

(c) the length of time the child has lived in a stable home environment;

(d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;

(e) any plans proposed for the care and upbringing of the child;

(f) the permanence and stability of the family unit with which it is proposed that the child will live; and

(g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody of or access to a child unless the conduct is relevant to the ability of the person to act as a parent of a child. Past conduct

25. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. Declining jurisdiction

26.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. Delay

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection (1), the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. Directions

(3) Where the court fixes a date under subsection (2), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. Early date

27. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court. Effect of divorce proceedings
R.S.C. 1970,
c. D-8

CUSTODY AND ACCESS—ORDERS

Powers
of court

28. The court to which an application is made under section 21,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order
varying
an order

29. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment
of needs of
child

30.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When
order
may be
made

(2) An order may be made under subsection (1) on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent
to act

(4) The court shall not appoint a person under subsection (1) unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance
for
assessment

(5) In an order under subsection (1), the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection (1) shall file his Report report with the clerk or registrar of the court.

(8) The clerk or registrar of the court shall give a copy of the Copies of report report to each of the parties and to counsel, if any, representing the child.

(9) The report mentioned in subsection (7) is admissible in Admissibility of report evidence in the application.

(10) Any of the parties, and counsel, if any, representing the Assessor may be witness child, may require the person appointed under subsection (1) to attend as a witness at the hearing of the application.

(11) Upon motion, the court by order may give such Directions directions in respect of the assessment as the court considers appropriate.

(12) The court shall require the parties to pay the fees and Fees and expenses expenses of the person appointed under subsection (1).

(13) The court shall specify in the order the proportions or Idem, proportions or amounts amounts of the fees and expenses that the court requires each party to pay.

(14) The court may relieve a party from responsibility for pay- Idem, serious financial hardship ment of any of the fees and expenses of the person appointed under subsection (1) where the court is satisfied that payment would cause serious financial hardship to the party.

(15) The appointment of a person under subsection (1) does Other expert evidence not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

31.—(1) Upon an application for custody of or access to a Mediation child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order.

(2) The court shall not appoint a person under subsection (1) Consent to act unless the person,

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of
mediator

(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.

Form of
report

(4) Before entering into mediation on the matter, the parties shall decide whether,

(a) the mediator is to file a full report on the mediation, including anything that the mediator considers relevant to the matter in mediation; or

(b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.

Filing of
report

(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection (4).

Copies of
report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.

Admissions
made in
the course
of mediation

(7) Where the parties have decided that the mediator's report is to be in the form described in clause (4) (b), evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection (1).

Fees and
expenses

(8) The court shall require the parties to pay the fees and expenses of the mediator.

Idem,
proportions
or amounts

(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.

Idem,
serious
financial
hardship

(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.

Official
Guardian's
report

32. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 1 of the *Matrimonial Causes Act* shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.

R.S.O. 1980,
c. 258

Further
evidence

33.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection (1) may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause. Cost of obtaining evidence

34.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 33 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court. Referral to court

(2) A court to which a request is referred by the Attorney General under subsection (1) shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request. Obtaining evidence

CUSTODY AND ACCESS—ENFORCEMENT

35.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body. Supervision of custody or access

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection (1) unless the person, society or body has consented to act as supervisor. Consent to act

36. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate. Order restraining harassment

37.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to Order where child unlawfully withheld

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to
locate and
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application
without
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between 6 a.m. and 9 p.m. standard time unless the court, in the order, authorizes entry and search at another time.

Expiration
of order

(7) An order made under subsection (2) shall name a date on which it expires, which shall be a date not later than six months after it is made unless the court is satisfied that a longer period of time is necessary in the circumstances.

(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time. When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3). Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3). Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following: Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3). Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate. Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order. Safekeeping

Directions

(7) In an order under subsection (3), a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt
of orders
of provincial
court (family
division)

39.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions
of
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information
as to
address

40.—(1) Where, upon application to a court, it appears to the court that,

(a) for the purpose of bringing an application in respect of custody or access under this Part; or

(b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause (b) is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause (b) is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

Exception

(2) A court shall not make an order on an application under subsection (1) where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance
with order

(3) The giving of information in accordance with an order under subsection (1) shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section
binds Crown

(4) This section binds the Crown in right of Ontario.

CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

41. Upon application, a court,

Interim
powers of
court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario;
or
- (b) that may not exercise jurisdiction under section 22 or that has declined jurisdiction under section 25 or 43,

may do any one or more of the following:

- 1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.
- 2. Stay the application subject to,
 - i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
 - ii. such other conditions as the court considers appropriate.
- 3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

42.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement
of extra-
provincial
orders

- (a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;
- (b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

- (e) that, in accordance with section 22, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of
recognition
of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting
orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection (1) shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further
orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding
order,
material
change in
circumstances

43.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

- (a) the child is habitually resident in Ontario at the commencement of the application for the order; or
- (b) although the child is not habitually resident in Ontario, the court is satisfied,
 - (i) that the child is physically present in Ontario at the commencement of the application for the order,
 - (ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,
 - (iii) that substantial evidence concerning the best interests of the child is available in Ontario,
 - (iv) that the child has a real and substantial connection with Ontario, and
 - (v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining
jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

44. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if, Superseding order, serious harm

(a) the child remains in the custody of the person legally entitled to custody of the child;

(b) the child is returned to the custody of the person entitled to custody of the child; or

(c) the child is removed from Ontario.

45. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person. True copy of extra-provincial order

46. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal. Court may take notice of foreign law

47.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section. Interpretation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection (3), the convention is in force in Ontario and the provisions thereof are law in Ontario. Convention on Civil Aspects of International Child Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with the *Legal Aid Act*. Exception

R.S.O. 1980,
c. 234

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention. Central Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention. Application to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs Request to ratify convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

SCHEDULE

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

CHAPTER I—SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II—CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III—RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER IV—RIGHTS OF ACCESS

Article 21

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

CHAPTER V—GENERAL PROVISIONS

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI—FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

GUARDIANSHIP

48.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian of the property of the child. Appointment of guardian

(2) A guardian of the property of a child has charge of and is responsible for the care and management of the property of the child. Responsibility of guardian

49.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians of the property of the child. Parents as guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian of the property of the child. Parent and other person

More than
one guardian

(3) A court may appoint more than one guardian of the property of a child.

Guardians
jointly
responsible

(4) Where more than one guardian is appointed of the property of a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

50. In deciding an application for the appointment of a guardian of the property of a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of
appointment

51. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment
of debt
due to
child

52.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian of the property of the child has been appointed, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money
payable
under
judgment

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

Receipt for
payment

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian of the property of the child.

Responsibility
for money
or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection (1) has the responsibility of a

guardian for the care and management of the money or personal property.

53. A guardian of the property of a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

54. A guardian of the property of a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

55. A guardian of the property of a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

56.—(1) A court that appoints a guardian of the property of a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection (1) does not apply where the court appoints a parent of a child as guardian of the property of the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

57. Upon application by a married child, the court that appointed a guardian of the property of the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

58.—(1) A guardian of the property of a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian of the property of a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

59. A notice of every application to a court for appointment of a guardian of the property of a child shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

DISPOSITION OF PROPERTY

60.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child

- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

Criteria

(2) An order shall be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.

Conditions

(3) An order under subsection (1) may be made subject to such conditions as the Supreme Court considers appropriate.

Limitation

(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.

Execution
of
documents

(5) The Supreme Court, where it makes an order under subsection (1), may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.

Directions

(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection (1).

Validity
of
documents

(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.

Liability

(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause (1) (c).

Order for
maintenance
where power
of appointment
in favour of
children

61.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.

Idem

(2) An order may be made under subsection (1) whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

TESTAMENTARY CUSTODY AND GUARDIANSHIP

62.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian of the property of a child may appoint by will one or more persons to be guardians of the property of the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection (1) or (2) by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection (1), (2) or (3) is effective only, Limitation

(a) if the appointor is the only person entitled to custody of the child or who is the guardian of the property of the child, as the case requires, on the day immediately before the appointment is to take effect; or

(b) if the appointor and any other person entitled to custody of the child or who is the guardian of the property of the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians of the property of a child by appointors who die as mentioned in clause (4) (b), only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

(6) No appointment under subsection (1), (2) or (3) is effective without the consent of the person appointed. Consent of appointee

(7) An appointment under subsection (1), (2) or (3) for custody of a child or guardianship of the property of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of the child or guardianship of the property of the child within the ninety-day period, when the application is disposed of. Expiration of appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 21 or 48. Application or order under ss. 21, 48

Application

(9) This section applies in respect of,

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

PROCEDURE

Joinder of proceedings

R.S.O. 1980,
c. 152Nature
of order

63.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under the *Family Law Reform Act*, or in another proceeding.

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

Parties

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

Combining
of
applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 26.

Where
identity
of father
not known

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

Application
or response
by minor

64.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

Consent by
minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

65.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them. Child entitled to be heard

(2) The court may interview the child to determine the views and preferences of the child. Interview by court

(3) The interview shall be recorded. Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview. Counsel

66. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control. Where child is sixteen or more years old

67. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time. All proceedings in one court

68. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing. Closed hearings

69.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child. Consent orders

(2) Any matter provided for in this Part and in a domestic contract as defined in the *Family Law Reform Act* may be incorporated in an order made under this Part. Incorporation of contract in order
R.S.O. 1980, c. 152

70. Where a domestic contract as defined in the *Family Law Reform Act* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of the *Family Law Reform Act*. Part subject to contracts

71. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction. Jurisdiction of Supreme Court

Surrogate
court

72. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made
under
R.S.O. 1980,
c. 292

73. An application to vary an order made by a surrogate court under the *Minors Act* shall be made to a county or district court.

Place of
application
for interim
order

74.—(1) An application for an interim order shall be made to the court in which the original proceeding was taken.

Place of
application
to vary
order

(2) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim
order

75. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from
provincial
court
(family
division)

76. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order
effective
pending
appeal

77. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of
construction

78.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship of the property of the child.

Application

(2) Subsection (1) applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

Application
of Part to
order under
R.S.O. 1980,
cc. 292, 152;
R.S.O. 1970,
c. 128

79. This Part applies to an outstanding order for custody or guardianship of or access to a child made under the *Minors Act* (repealed by section 4 of the *Children's Law Reform Amendment Act, 1981*), the *Family Law Reform Act* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part.

COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 22 of subsection 1 (1) of the *Education Act*, being chapter 129, is repealed and the following substituted therefor: R.S.O. 1980, c. 129, s. 1 (1), par. 22, re-enacted

22. “guardian” means a person who has lawful custody of a child, other than the parent of the child.

- (2) Section 17 of the said Act is amended by striking out “in law” in the second line and inserting in lieu thereof “in section 1” and by striking out “or legal custody” in the fifth line. s. 17, amended

- 3.—(1) Subsection 20 (1) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by striking out “or custody” in the third line. R.S.O. 1980, c. 152, s. 20 (1), amended

- (2) Clause 26 (1) (b) of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b), amended

- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35, re-enacted

35. An application for custody or access under the *Children's Law Reform Act* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of actions R.S.O. 1980, c. 68

- 4.—(1) The *Minors Act*, being chapter 292 of the Revised Statutes of Ontario, 1980, is repealed. R.S.O. 1980, c. 292, repealed

- (2) Where an application is made under the *Minors Act* or under section 35 of the *Family Law Reform Act* before subsection (1) comes into force and no evidence has been heard in the proceeding before subsection (1) comes into force, other than in respect of an interim order, the application shall be deemed to be an application under the *Children's Law Reform Act*, subject to such directions as the court considers appropriate. Application of subs. (1) to proceeding already commenced

- (3) Where an application referred to in subsection (2) is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate. Where proceeding in surrogate court

R.S.O. 1980,
c. 515
Sched.,
amended

5. The Schedule to the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following:

*"Children's Law
Reform Act*

All, except sections 60 and 61".

Commence-
ment

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

7. The short title of this Act is the *Children's Law Reform Amendment Act, 1982*.

An Act to amend the
Children's Law Reform Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. R. MCMURTRY
Attorney General

*(Reprinted as amended by the
Administration of Justice Committee)*

BILL 125

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act to amend the Children's Law Reform Act

THE HON. R. MCMURTRY
Attorney General

TORONTO

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THE UNIVERSITY OF CHICAGO

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BILL 125

1982

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III

CUSTODY, ACCESS AND GUARDIANSHIP

INTERPRETATION

18.—(1) In this Part,

Interpre-
tation

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 72;
- (b) "extra-provincial order" means an order, or that part of an order, of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child;
- (d) "separation agreement" means an agreement that is a valid separation agreement under Part IV of the *Family Law Reform Act*.

R.S.O. 1980,
c. 152

(2) A reference in this Part to a child is a reference to the child while a minor.

Purposes

19. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

CUSTODY AND ACCESS

Father and
mother
entitled to
custody

20.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights
and
respon-
sibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child and must exercise those rights and responsibilities in the best interests of the child.

Authority
to act

(3) Where more than one person is entitled to custody of a child any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where
parents
separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

Access

(5) The entitlement to access to a child includes the right to visit with and be visited by the child and the same right as a parent to make inquiries and to be given information as to the health, education and welfare of the child.

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

21. A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

22.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

(a) with both parents;

(b) where the parents are living separate and apart, with one parent under a separation agreement or with the consent, implied consent or acquiescence of the other or under a court order; or

- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious harm to child

23. Notwithstanding sections 22 and 42, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
 - (i) the child remains in the custody of the person legally entitled to custody of the child,
 - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
 - (iii) the child is removed from Ontario.

Merits of application for custody or access

24.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best interests of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the needs and circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
 - (i) each person entitled to or claiming custody of or access to the child,
 - (ii) other members of the child's family who reside with the child, and
 - (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;

- (c) the length of time the child has lived in a stable home environment;
- (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of the family unit with which it is proposed that the child will live; and
- (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody of or access to a child unless the conduct is relevant to the ability of the person to act as a parent of a child. Past conduct

25. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. Declining jurisdiction

26.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. Delay

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection (1), the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. Directions

(3) Where the court fixes a date under subsection (2), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. Early date

27. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court. Effect of divorce proceedings
R.S.C. 1970,
c. D-8

CUSTODY AND ACCESS—ORDERS

Powers
of court

28. The court to which an application is made under section 21,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order
varying
an order

29. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment
of needs of
child

30.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When
order
may be
made

(2) An order may be made under subsection (1) on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent
to act

(4) The court shall not appoint a person under subsection (1) unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance
for
assessment

(5) In an order under subsection (1), the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection (1) shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection (7) is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection (1) to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection (1). Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection (1) where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection (1) does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

31.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection (1) unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of mediator	(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.
Form of report	(4) Before entering into mediation on the matter, the parties shall decide whether, <ul style="list-style-type: none"> (a) the mediator is to file a full report on the mediation, including anything that the mediator considers relevant to the matter in mediation; or (b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.
Filing of report	(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection (4).
Copies of report	(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.
Admissions made in the course of mediation	(7) Where the parties have decided that the mediator's report is to be in the form described in clause (4) (b), evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection (1).
Fees and expenses	(8) The court shall require the parties to pay the fees and expenses of the mediator.
Idem, proportions or amounts	(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.
Idem, serious financial hardship	(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.
Official Guardian's report	32. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 1 of the <i>Matrimonial Causes Act</i> shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.
R.S.O. 1980, c. 258	
Further evidence	33.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection (1) may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause. Cost of obtaining evidence

34.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 33 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court. Referral to court

(2) A court to which a request is referred by the Attorney General under subsection (1) shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request. Obtaining evidence

CUSTODY AND ACCESS—ENFORCEMENT

35.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body. Supervision of custody or access

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection (1) unless the person, society or body has consented to act as supervisor. Consent to act

36. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate. Order restraining harassment

37.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to Order where child unlawfully withheld

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to
locate and
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application
without
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between 6 a.m. and 9 p.m. standard time unless the court, in the order, authorizes entry and search at another time.

Expiration
of order

(7) An order made under subsection (2) shall name a date on which it expires, which shall be a date not later than six months after it is made unless the court is satisfied that a longer period of time is necessary in the circumstances.

(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time. When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3). Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3). Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following: Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3). Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate. Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order. Safekeeping

Directions

(7) In an order under subsection (3), a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt
of orders
of provincial
court (family
division)

39.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions
of
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information
as to
address

40.—(1) Where, upon application to a court, it appears to the court that,

- (a) for the purpose of bringing an application in respect of custody or access under this Part; or
- (b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause (b) is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause (b) is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

Exception

(2) A court shall not make an order on an application under subsection (1) where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance
with order

(3) The giving of information in accordance with an order under subsection (1) shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section
binds Crown

(4) This section binds the Crown in right of Ontario.

CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

41. Upon application, a court,

Interim
powers of
court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario;
or
- (b) that may not exercise jurisdiction under section 22 or that has declined jurisdiction under section 25 or 43,

may do any one or more of the following:

- 1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.
- 2. Stay the application subject to,
 - i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
 - ii. such other conditions as the court considers appropriate.
- 3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

42.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement
of extra-
provincial
orders

- (a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;
- (b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

- (e) that, in accordance with section 22, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of
recognition
of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting
orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection (1) shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further
orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding
order,
material
change in
circumstances

43.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

(a) the child is habitually resident in Ontario at the commencement of the application for the order; or

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,

(iii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iv) that the child has a real and substantial connection with Ontario, and

(v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining
jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

44. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if,

Superseding
order,
serious
harm

- (a) the child remains in the custody of the person legally entitled to custody of the child;
- (b) the child is returned to the custody of the person entitled to custody of the child; or
- (c) the child is removed from Ontario.

45. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person.

True copy
of extra-
provincial
order

46. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal.

Court may
take notice
of foreign
law

47.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section.

Interpre-
tation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection (3), the convention is in force in Ontario and the provisions thereof are law in Ontario.

Convention
on Civil
Aspects of
International
Child
Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with the *Legal Aid Act*.

Exception

R.S.O. 1980,
c. 234

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention.

Central
Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention.

Application
to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs

Request
to ratify
convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

SCHEDULE

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

CHAPTER I—SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

Article 2

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

Article 3

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

Article 4

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

Article 5

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

CHAPTER II—CENTRAL AUTHORITIES

Article 6

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

CHAPTER III—RETURN OF CHILDREN

Article 8

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

Article 9

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

Article 10

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

Article 11

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

Article 12

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 14

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

Article 15

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

Article 16

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

Article 17

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

Article 18

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

Article 19

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

Article 20

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

CHAPTER IV—RIGHTS OF ACCESS

Article 21

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

CHAPTER V—GENERAL PROVISIONS

Article 22

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

Article 23

No legalization or similar formality may be required in the context of this Convention.

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Article 25

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Article 26

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

Article 27

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

Article 28

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

Article 29

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

Article 30

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

Article 32

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 33

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

Article 34

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

Article 35

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

Article 36

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

CHAPTER VI—FINAL CLAUSES

Article 37

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 38

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

Article 39

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 40

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 41

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

Article 42

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

Article 43

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

Article 44

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 45

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

GUARDIANSHIP

48.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian of the property of the child. Appointment
of guardian

(2) A guardian of the property of a child has charge of and is responsible for the care and management of the property of the child. Responsibility
of guardian

49.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians of the property of the child. Parents as
guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian of the property of the child. Parent and
other person

More than
one guardian

(3) A court may appoint more than one guardian of the property of a child.

Guardians
jointly
responsible

(4) Where more than one guardian is appointed of the property of a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

50. In deciding an application for the appointment of a guardian of the property of a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of
appointment

51. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment
of debt
due to
child

52.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian of the property of the child has been appointed, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money
payable
under
judgment
Receipt for
payment

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian of the property of the child.

Responsibility
for money
or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection (1) has the responsibility of a

guardian for the care and management of the money or personal property.

53. A guardian of the property of a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

54. A guardian of the property of a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

55. A guardian of the property of a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

56.—(1) A court that appoints a guardian of the property of a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection (1) does not apply where the court appoints a parent of a child as guardian of the property of the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

57. Upon application by a married child, the court that appointed a guardian of the property of the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

58.—(1) A guardian of the property of a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian of the property of a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

59. A notice of every application to a court for appointment of a guardian of the property of a child shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

DISPOSITION OF PROPERTY

60.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child

- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

Criteria

(2) An order shall be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.

Conditions

(3) An order under subsection (1) may be made subject to such conditions as the Supreme Court considers appropriate.

Limitation

(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.

Execution
of
documents

(5) The Supreme Court, where it makes an order under subsection (1), may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.

Directions

(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection (1).

Validity
of
documents

(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.

Liability

(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause (1) (c).

Order for
maintenance
where power
of appointment
in favour of
children

61.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.

Idem

(2) An order may be made under subsection (1) whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

TESTAMENTARY CUSTODY AND GUARDIANSHIP

62.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian of the property of a child may appoint by will one or more persons to be guardians of the property of the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection (1) or (2) by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection (1), (2) or (3) is effective only, Limitation

- (a) if the appointor is the only person entitled to custody of the child or who is the guardian of the property of the child, as the case requires, on the day immediately before the appointment is to take effect; or
- (b) if the appointor and any other person entitled to custody of the child or who is the guardian of the property of the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians of the property of a child by appointors who die as mentioned in clause (4) (b), only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

(6) No appointment under subsection (1), (2) or (3) is effective without the consent of the person appointed. Consent of appointee

(7) An appointment under subsection (1), (2) or (3) for custody of a child or guardianship of the property of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of the child or guardianship of the property of the child within the ninety-day period, when the application is disposed of. Expiration of appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 21 or 48. Application or order under ss. 21, 48

Application

(9) This section applies in respect of,

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

PROCEDURE

Joinder of proceedings

R.S.O. 1980,
c. 152

63.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under the *Family Law Reform Act*, or in another proceeding.

Nature of order

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

Parties

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

Combining of applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 26.

Where identity of father not known

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

Application or response by minor

64.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

Consent by minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

65.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them. Child entitled to be heard

(2) The court may interview the child to determine the views and preferences of the child. Interview by court

(3) The interview shall be recorded. Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview. Counsel

66. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control. Where child is sixteen or more years old

67. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time. All proceedings in one court

68. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing. Closed hearings

69.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child. Consent orders

(2) Any matter provided for in this Part and in a domestic contract as defined in the *Family Law Reform Act* may be incorporated in an order made under this Part. Incorporation of contract in order
R.S.O. 1980, c. 152

70. Where a domestic contract as defined in the *Family Law Reform Act* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of the *Family Law Reform Act*. Part subject to contracts

71. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction. Jurisdiction of Supreme Court

Surrogate
court

72. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made
under
R.S.O. 1980,
c. 292

73. An application to vary an order made by a surrogate court under the *Minors Act* shall be made to a county or district court.

Place of
application
for interim
order

74.—(1) An application for an interim order shall be made to the court in which the original proceeding was taken.

Place of
application
to vary
order

(2) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim
order

75. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from
provincial
court
(family
division)

76. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order
effective
pending
appeal

77. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of
construction

78.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship of the property of the child.

Application

(2) Subsection (1) applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

Application
of Part to
order under
R.S.O. 1980,
cc. 292, 152;
R.S.O. 1970,
c. 128

79. This Part applies to an outstanding order for custody or guardianship of or access to a child made under the *Minors Act* (repealed by section 4 of the *Children's Law Reform Amendment Act, 1981*), the *Family Law Reform Act* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part.

COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 22 of subsection 1 (1) of the *Education Act*, being chapter 129, is repealed and the following substituted therefor: R.S.O. 1980,
c. 129,
s. 1 (1), par.
22,
re-enacted

22. "guardian" means a person who has lawful custody of a child, other than the parent of the child.

- (2) Section 17 of the said Act is amended by striking out "in law" s. 17,
amended in the second line and inserting in lieu thereof "in section 1" and by striking out "or legal custody" in the fifth line.

- 3.—(1) Subsection 20 (1) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by striking out "or custody" in the third line. R.S.O. 1980,
c. 152,
s. 20 (1),
amended

- (2) Clause 26 (1) (b) of the said Act is amended by striking out "custody or access" in the second line. s. 26 (1) (b),
amended

- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35,
re-enacted

35. An application for custody or access under the *Children's Law Reform Act* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of
actions
R.S.O. 1980,
c. 68

- 4.—(1) The *Minors Act*, being chapter 292 of the Revised Statutes of Ontario, 1980, is repealed. R.S.O. 1980,
c. 292,
repealed

- (2) Where an application is made under the *Minors Act* or under section 35 of the *Family Law Reform Act* before subsection (1) comes into force and no evidence has been heard in the proceeding before subsection (1) comes into force, other than in respect of an interim order, the application shall be deemed to be an application under the *Children's Law Reform Act*, subject to such directions as the court considers appropriate. Application
of subs. (1)
to proceeding
already
commenced

- (3) Where an application referred to in subsection (2) is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate. Where
proceeding
in surrogate
court

R.S.O. 1980,
c. 515
Sched.,
amended

- 5.** The Schedule to the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following:

*"Children's Law
Reform Act*

All, except sections 60 and 61"

Commence-
ment

- 6.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 7.** The short title of this Act is the *Children's Law Reform Amendment Act, 1982*.

An Act to amend the
Children's Law Reform Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

June 18th, 1982

THE HON. R. MCMURTRY
Attorney General

**2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982**

An Act to amend the Liquor Control Act

MR. SAMIS

EXPLANATORY NOTE

The purpose of the Bill is to enable independent grocery store owners to sell beer.

BILL 126

1982

An Act to amend the Liquor Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1,
amended

(ca) "independent grocery store owner" means a person who owns a store at which the principal business is the sale of foodstuffs and who does not own or, under the terms of an agreement, participate in a chain or franchise undertaking consisting of more than three other grocery stores.

2. Section 3 of the said Act is amended by adding thereto the following clause: s. 3,
amended

(ea) to authorize independent grocery store owners to sell beer from their grocery stores and to regulate their keeping for sale, sale and delivery of beer.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Liquor Control Amendment Act*, Short title
1982.

An Act to amend the Liquor Control Act

1st Reading

May 25th, 1982

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Municipality of Metropolitan Toronto Act**

THE HON. B. STEPHENSON
Minister of Education and Minister of Colleges and Universities

EXPLANATORY NOTE

The Bill contains amendments related to education.

SECTION 1. Section 116 is the interpretation section for Part VIII. The additions are complementary to new section 130*a* and following of the Act, set out in the Bill.

BILL 127

1982

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, ^{s. 116, amended} being chapter 314 of the Revised Statutes of Ontario, 1980, is amended,

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,

(ii) The Federation of Women Teachers' Associations of Ontario, or

(iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

(i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or

(ii) The Ontario Secondary School Teachers' Federation.

s. 116,
amended

(2) The said section 116 is further amended by adding thereto the following subsection:

Interpre-
tation

(2) In this Part,

R.S.O. 1980,
c. 464

(a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

(b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

R.S.O. 1980,
c. 129

s. 118 (4),
re-enacted

2. Subsection 118 (4) of the said Act is repealed and the following substituted therefor:

Election and
term of
office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 121 (3),
amended

3. Subsection 121 (3) of the said Act is amended by striking out "or otherwise participate" in the seventh line.

s. 124 (1),
re-enacted

4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor:

Quorum
voting

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the

SECTION 2. Subsection 118 (4) of the Act now provides for a two-year term of office. The effect of the amendment is that the term of office will be governed by the *Municipal Elections Act*.

SECTION 3. The subsection proposed to be amended is set out below showing underlined words to be deleted:

- (3) *The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6).*

The effect of the amendment will be to permit an alternate member of The Metropolitan Toronto School Board to participate in meetings of the School Board or of its committees that he attends; the prohibition against an alternate member voting is retained.

SECTION 4. The effect of the re-enactment of the subsection is to increase from eight to ten the number of members required to form a quorum when the School Board is dealing with matters affecting public schools exclusively and to increase from ten to eleven the number required to form a quorum in all other cases.

Over the years the School Board has been increased in size from 19 (16 and 3) to 20 (17 and 3) to the present 21 (18 and 3) members and it is appropriate that the quorum be increased accordingly.

SECTION 5. The subsection repealed reads as follows:

- (2) *The members of the School Board appointed by the Metropolitan Separate School Board, shall hold office for two years and until their successors are appointed.*

The new subsection more closely parallels the provisions of subsections 121 (4) and 125 (1) relative to the members of the School Board who are appointed by boards of education in the Metropolitan Area.

SECTION 6. Clause 127 (1) (f) of the Act is amended to remove the maximum amounts of allowances that may be paid to members and the chairman of the School Board. New subsections 127 (1a) to (1c) are added to permit an outgoing School Board to determine the amounts of allowances to members, alternate members and the chairman of succeeding School Boards. The School Board may decrease the amount of allowance authorized by a predecessor School Board.

New subsections 127 (3) to (7) of the Act require the Metropolitan School Board to apportion its estimates of amounts required for public elementary school purposes and secondary school purposes to the area municipalities and set out the method of calculating the apportionments.

School Board present who are entitled to vote on any matter are necessary to carry such matter.

5. Subsection 125 (2) of the said Act is repealed and the following substituted therefor: s. 125 (2),
re-enacted

(2) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have been held, and such members shall hold office until their successors take office and a new School Board is organized. Separate
school repre-
sentatives

- 6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines. s. 127 (1) (f),
amended

- (2) Section 127 of the said Act is amended by adding thereto the following subsections: s. 127,
amended

(1a) The School Board may pay, Allowances

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of members of boards of education in the Metropolitan Area next following the day of the determination. When
applicable

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board. Decrease

Apportion-
ment by
School
Board

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

Reduction of
apportionment

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by a portion of the surplus that, in the opinion of the School Board, is not less than the amount of the surplus that was raised by local taxation in the area municipality.

Increase of
apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Calculation
of
apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

(a) that the total rateable property for public school purposes in respect of each area municipality bears to the

total rateable property in the Metropolitan Area for public school purposes; and

- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

(7) In this section,

Interpre-
tation

- (a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;

R.S.O. 1980,
c. 129

- (b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;

- (c) "total rateable property",

- (i) in relation to an area municipality, means the sum of,

(A) residential and farm assessment,

(B) the quotient obtained by dividing the commercial assessment by 0.85, and

(C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

7. The said Act is amended by adding thereto the following sections: ss. 130a-130i, enacted

130a.—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, Elementary school agreement

respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards.

Secondary
school
agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards.

Contents
of
agreement

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined.

Joint
negotiations
by boards

130*b*.—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130*a*.

Negotiating
committee

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130*a* shall be carried out by a negotiating committee.

Composition
of
committee

(3) The negotiating committee shall be composed of,

- (a) one person appointed by the School Board, who shall be the chairman; and
- (b) six other persons, of whom one shall be appointed by each board of education.

Decisions
by
committee

(4) A decision of the majority of the members of the negotiating committee, representing the boards that employ the majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the negotiating committee.

Ratification
by boards

(5) A decision by the negotiating committee is not effective until it is ratified by a majority of the boards employing the majority of the elementary school teachers or secondary school teachers, as the case requires.

Joint
negotiations
by elementary
school branch
affiliates

130*c*.—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130*a*.

SECTION 7. New section 130a and following of the Act relate to collective negotiations between the School Boards (including the Metropolitan School Board) and teachers in Metropolitan Toronto.

New section 130a requires joint negotiations and a joint agreement between the boards and the branch affiliates at the elementary school level in respect of terms and conditions of employment in relation to salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. A similar requirement applies to negotiations and agreement at the secondary school level.

New sections 130b to 130e relate to the negotiation and ratification of the agreement.

New section 130f relates to the inclusion of additional provisions in an agreement mentioned in new section 130a.

New section 130g permits a board and a branch affiliate to negotiate and enter into an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

New section 130i authorizes the Ontario Labour Relations Board, on application by a board, to give directions where the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a. A direction by the Ontario Labour Relations Board will be enforceable in the same way as a judgment or order of the Supreme Court.

SECTION 8. New section 130j authorizes a board of education to employ more teachers than are provided for in an agreement under new section 130a subject to the conditions stated in subsections 130j (2) and (3).

Where the Metropolitan School Board increases the apportionment to an area municipality under new subsection 127 (5) to include a deficit of a board of education in a previous year and the amount of the increase exceeds a sum calculated at one mill in the dollar upon the total rateable property in the area municipality, new subsections 130j (4) and (5) require the termination of the employment of the additional teachers.

Subsection 130j (6) exempts a board of education acting under the section from the requirement under new section 130i of obtaining the consent of the Metropolitan School Board.

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) related to making or renewing an agreement mentioned in section 130a shall be carried out by a negotiating committee. Negotiating committee

(3) The negotiating committee mentioned in subsection (2) shall be composed of as many members as there are branch affiliates mentioned in subsection (1), and each branch affiliate mentioned in subsection (1) shall appoint one person to be a member of the negotiating committee. Composition

130d.—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a. Joint negotiations by secondary school branch affiliates

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) related to making or renewing an agreement mentioned in section 130a shall be carried out by a negotiating committee. Negotiating committee

(3) The negotiating committee mentioned in subsection (2) shall be composed of as many members as there are branch affiliates mentioned in subsection (1), and each branch affiliate mentioned in subsection (1) shall appoint one person to be a member of the negotiating committee. Composition

130e.—(1) A decision of the majority of the members of a committee negotiating on behalf of branch affiliates, representing the majority of the elementary school teachers or secondary school teachers (as the case requires) employed by the board, is the decision of the negotiating committee. Decision of teachers' negotiating committee

(2) A decision by a committee negotiating on behalf of branch affiliates is not effective until it is ratified by a majority of the branch affiliates representing the majority of the elementary school teachers or secondary school teachers, as the case requires, employed by the boards. Ratification by branch affiliates

130f.—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the elementary school teachers employed by the boards. Additional provision of elementary school agreement

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is Additional provision of secondary school agreement

agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards.

Elementary
school local
agreement

130g.—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Secondary
school local
agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Priority

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

R.S.O. 1980,
c. 464

Application of
R.S.O. 1980,
c. 464

130h.—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application
of Part

(2) No agreement between a board and a branch affiliate is valid on or after the 1st day of September, 1983 unless the agreement is made or renewed in accordance with this Part.

Consent of
School
Board

130i.—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a without the consent expressed by resolution of the School Board.

Condition
precedent

(2) The School Board shall not consider giving a consent mentioned in subsection (1) until each board of education by resolution has consented to the implementation of the term or condition of employment.

Direction
by O.L.R.B.

(3) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a without the consent by resolution of the School Board, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or refrain from doing with respect to the term or condition of employment.

(4) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court. Enforcement

(5) The *Labour Relations Act* applies, with necessary modifications, in respect of proceedings before the Ontario Labour Relations Board under this section. Application of
R.S.O. 1980,
c. 228

8. The said Act is further amended by adding thereto the following section: s. 130 j,
enacted

130 j.—(1) In this section, Interpretation

(a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;

(b) “last revised assessment roll” means the last revised assessment roll for the area municipality in which the board of education has jurisdiction;

(c) “school year” has the same meaning as in the *Education Act*; R.S.O. 1980,
c. 129

(d) “total rateable property” means “total rateable property” as defined in section 127.

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers, Employment
of additional
teachers

(a) is not included in the portion of the estimates of the board of education approved by the School Board; and

(b) does not exceed a sum calculated at one mill in the dollar upon the total rateable property for public elementary (in the case of elementary school teachers) or secondary school (in the case of secondary school teachers) purposes according to the last revised assessment roll.

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced, Limitation

(a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and

(b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

Termination of
employment,
additional
elementary
school
teachers

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property according to the last revised assessment roll for public elementary school purposes, the board of education,

(a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and

(b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

Termination of
employment,
secondary
school
teachers

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property according to the last revised assessment roll for secondary school purposes, the board of education,

(a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and

(b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Application of
s. 130*i*

(6) A board of education may act under subsections (2) and (3) without the consent of the School Board mentioned in section 130*i*.

s. 133 (1),
amended

9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:

(e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130*j* in addition to the number of teachers that the board is entitled to employ under an agreement under section 130*a* that provides the method by which the

SECTION 9.—Subsection 1. Subsection 133 (1) of the Act sets out the matters to be included in the annual estimates of a board of education in the Metropolitan Area. New clause 133 (1) (e) is complementary to new section 130*i* set out in this Bill.

Subsection 2. Subsection 133 (4) of the Act authorizes a board of education to submit to the council of the area municipality in which it has jurisdiction the estimates of the board after making allowance for the revenues to be derived from the Metropolitan School Board.

Clauses 133 (4) (a) and (b) limit the amounts that may be included for elementary school purposes and secondary school purposes in the estimates submitted by a board of education to the council of an area municipality. The amendment provides a formula for calculating the limit related to the amendments to section 127 of the Act.

SECTION 10. Subsections 219 (3) and (4) of the Act relate to the apportionment among the area municipalities of the amount levied by the Metropolitan Council for public school purposes and secondary school purposes. The subsections are re-enacted to relate to the amendments to section 127 of the Act.

SECTION 11. The amendments related to estimates and apportionments will apply to 1983 and subsequent years.

number of teachers to be employed by the board is determined.

- (2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor: s. 133 (4)
(a, b),
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor: s. 219 (3, 4),
re-enacted

(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under subsection 127 (7). Elementary
school
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under subsection 127 (7). Secondary
school
purposes

- 11.—(1) The following apply only in respect of estimates and apportionments in 1983 and subsequent years: Application
of certain
sections

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.

3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.

4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

Idem (2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982.

Commence-
ment **12.—**(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem (2) Section 8 comes into force on the 1st day of January, 1983.

Short title **13.** The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1982*.

An Act to amend the Municipality
of Metropolitan Toronto Act

1st Reading

May 28th, 1982

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

(Government Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to amend the
Municipality of Metropolitan Toronto Act**

THE HON. B. STEPHENSON
Minister of Education and Minister of Colleges and Universities

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTE

The Bill contains amendments related to education.

SECTION 1. Section 116 is the interpretation section for Part VIII. The additions are complementary to new section 130*a* and following of the Act, set out in the Bill.

BILL 127

1982

An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, ^{s. 116, amended} being chapter 314 of the Revised Statutes of Ontario, 1980, is amended,

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,

(ii) The Federation of Women Teachers' Associations of Ontario, or

(iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

(i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or

(ii) The Ontario Secondary School Teachers' Federation.

s. 116,
amended

(2) The said section 116 is further amended by adding thereto the following subsection:

Interpre-
tation

(2) In this Part,

(a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,
c. 464

(b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

R.S.O. 1980,
c. 129

s. 118 (4),
re-enacted

2. Subsection 118 (4) of the said Act is repealed and the following substituted therefor:

Election and
term of
office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 121 (3),
amended

3. Subsection 121 (3) of the said Act is amended by striking out "or otherwise participate" in the seventh line.

s. 124 (1),
re-enacted

4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor:

Quorum
voting

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the

SECTION 2. Subsection 118 (4) of the Act now provides for a two-year term of office. The effect of the amendment is that the term of office will be governed by the *Municipal Elections Act*.

SECTION 3. The subsection proposed to be amended is set out below showing underlined the words to be deleted:

- (3) *The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6).*

The effect of the amendment will be to permit an alternate member of The Metropolitan Toronto School Board to participate in meetings of the School Board or of its committees that he attends; the prohibition against an alternate member voting is retained.

SECTION 4. The effect of the re-enactment of the subsection is to increase from eight to ten the number of members required to form a quorum when the School Board is dealing with matters affecting public schools exclusively and to increase from ten to eleven the number required to form a quorum in all other cases.

Over the years the School Board has been increased in size from 19 (16 and 3) to 20 (17 and 3) to the present 21 (18 and 3) members and it is appropriate that the quorum be increased accordingly.

SECTION 5. Section 125 of the Act deals with the term of office of members of the School Board. The section is re-enacted to provide for resignations and to make the provisions related to members of the School Board appointed by the Metropolitan Separate School Board more closely parallel those related to members appointed by boards of education.

School Board present who are entitled to vote on any matter are necessary to carry such matter.

5. Section 125 of the said Act is repealed and the following substituted therefor: s. 125,
re-enacted

125.—(1) Except as provided in this section and in subsection 126 (5), the members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new board is organized. Term of
office

(2) Where as a result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. Chairman
of board of
education

(3) A member of the School Board appointed by a board of education and who is not the chairman of the School Board may, with the consent, Resignation
by member
of School
Board

(a) of the board of education that appointed him; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member without resigning from the board of education, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum under subsection 124 (1).

(4) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have been held, and such members, except as provided in subsection (5) and subsection 126 (5), shall hold office until their successors take office and a new School Board is organized. Members
appointed
by Metro-
politan
Separate
School
Board

(5) A member of the School Board appointed by the Metropolitan Separate School Board may, with the consent, Resignation
of member
appointed
by Metro-
politan
Separate
School
Board

(a) of the Metropolitan Separate School Board; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum for secondary school purposes.

s. 127 (1) (f),
amended

6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines.

s. 127,
amended

(2) Section 127 of the said Act is amended by adding thereto the following subsections:

Allowances

(1a) The School Board may pay,

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

When
applicable

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of members of boards of education in the Metropolitan Area next following the day of the determination.

Decrease

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board.

Apportion-
ment by
School
Board

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined

SECTION 6. Clause 127 (1) (f) of the Act is amended to remove the maximum amounts of allowances that may be paid to members and the chairman of the School Board. New subsections 127 (1a) to (1c) are added to permit an outgoing School Board to determine the amounts of allowances to members, alternate members and the chairman of succeeding School Boards. The School Board may decrease the amount of allowance authorized by a predecessor School Board.

New subsections 127 (3) to (7) of the Act require the School Board to apportion its estimates of amounts required for public elementary school purposes and secondary school purposes to the area municipalities and set out the method of calculating the apportionments.

shall be apportioned to each area municipality in accordance with subsection (6).

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by an amount that, in the opinion of the School Board, is equal to the portion of the surplus that was raised by local taxation in the area municipality.

Reduction of
apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of
apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

Calculation
of
apportionment

- (a) that the total rateable property for public school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for public school purposes; and
- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to

the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Interpre-
tation

(7) In this section,

R.S.O. 1980,
c. 129

(a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;

(b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;

(c) "total rateable property",

(i) in relation to an area municipality, means the sum of,

(A) residential and farm assessment,

| (B) commercial assessment, and

(C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

(ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

ss. 130a-130i,
enacted

7. The said Act is amended by adding thereto the following sections:

Elementary
school
agreement

130a.—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards.

Secondary
school
agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement,

SECTION 7. New section 130a and following of the Act relate to collective negotiations between the boards (including The Metropolitan Toronto School Board) and teachers in Metropolitan Toronto.

New section 130a requires joint negotiations and a joint agreement between the boards and the branch affiliates at the elementary school level in respect of terms and conditions of employment in relation to salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. A similar requirement applies to negotiations and agreement at the secondary school level.

New sections 130b to 130e relate to the negotiation and ratification of the agreement.

New section 130f relates to the inclusion of additional provisions in an agreement mentioned in new section 130a.

New section 130g permits a board and a branch affiliate to negotiate and enter into an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

New section 130h relates to the relationship between the Act and the *School Boards and Teachers Collective Negotiations Act*. The section also contains transitional provisions related to the application of new sections 130a to 130i and specifies that the section is subject to the *Inflation Restraint Act, 1982* (Bill 179).

New section 130i authorizes the Ontario Labour Relations Board, on application by a board, to give directions where the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a. A direction by the Ontario Labour Relations Board will be enforceable in the same way as a judgment or order of the Supreme Court.

respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards.

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined.

Contents
of
agreement

(4) In this section, "financial benefits" means,

Interpre-
tation

(a) compensation other than salary payable or provided directly or indirectly except money paid in reimbursement of expenses incurred in the performance of duties;

(b) a benefit that, at the date the agreement under which the benefit is provided is ratified, has a value that is required to be included in income under the *Income Tax Act* (Canada); and

R.S.C. 1952,
c. 148

(c) an insured employee benefit.

130b.—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Joint
negotiations
by boards

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130a shall be carried out under the direction of a committee with each of the boards appointing one member of the committee.

Committee

(3) A decision by the majority of the members of the committee, representing together the employers of a majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the committee.

Decisions
by
committee

(4) A decision by the committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified by a majority of the boards and the majority employs the majority of the elementary school teachers or secondary school teachers, as the case requires.

Ratification
by boards

(5) The School Board may remove from the committee a person appointed by the School Board and a board of education may remove from the committee a person appointed by the board of education, but the School Board or board of education (as the case requires) shall appoint another person to the committee in the place of the person removed.

Replacement
of member of
committee

Joint
negotiations
by elementary
school branch
affiliates

130c.—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appointments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Joint
negotiations
by secondary
school branch
affiliates

130d.—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appointments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Committee

130e.—(1) A committee directing negotiations on behalf of branch affiliates may determine its own procedures.

Ratification

(2) A decision by a committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified,

(a) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who are employed by the boards and participate in the ratification vote; and

(b) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who participate in the ratification vote mentioned in clause (a) conducted among the elementary school teachers or secondary school teachers, as the case may be, employed by each of a majority of the boards.

Additional
provision of
elementary
school
agreement

130f.—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the

branch affiliates that represent the elementary school teachers employed by the boards.

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards.

Additional provision of secondary school agreement

130g.—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Elementary school local agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Secondary school local agreement

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

Priority

R.S.O. 1980, c. 464

(4) Negotiations to make or renew an agreement mentioned in section 130a and negotiations to make or renew an agreement mentioned in subsection (1) or (2) may proceed simultaneously and the *School Boards and Teachers Collective Negotiations Act* applies separately in respect of each such agreement and the negotiations and proceedings in respect of each such agreement.

Separate proceedings

130h.—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application of R.S.O. 1980, c. 464

(2) Sections 130a to 130i do not apply in respect of an agreement or negotiations to make or renew an agreement that is to come into force before the 1st day of September, 1983.

Application of ss. 130a to 130i

(3) An agreement that is to come into force before the 1st day of September, 1983 shall be for a term that ends on the 31st day of August, 1983.

Term of agreement

(4) No agreement between a board and a branch affiliate that comes into force on or after the 1st day of September, 1983 is

Application of Part

valid unless the agreement is made or renewed in accordance with this Part.

Application of
1982, c. ...

(5) Subsections (1) to (4) are subject to the *Inflation Restraint Act, 1982*.

Board not
to implement
variant term
or condition
of employ-
ment

130i.—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a.

Direction
by O.L.R.B.

(2) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or refrain from doing with respect to the term or condition of employment.

Enforcement

(3) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court.

Application of
R.S.O. 1980,
c. 228

(4) The *Labour Relations Act* applies, with necessary modifications, in respect of proceedings before the Ontario Labour Relations Board under this section.

s. 130 j,
enacted

8. The said Act is further amended by adding thereto the following section:

Interpretation

130 j.—(1) In this section,

(a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;

R.S.O. 1980,
c. 129

(b) “school year” has the same meaning as in the *Education Act*;

(c) “total rateable property” means “total rateable property” as defined in subclause 127 (7) (c) (i).

Employment
of additional
teachers

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers,

(a) is not included in the portion of the estimates of the board of education approved by the School Board; and

SECTION 8. New section 130j authorizes a board of education to employ more teachers than are provided for in an agreement under new section 130a subject to the conditions stated in subsections 130j (2) and (3).

Where the School Board increases the apportionment to an area municipality under new subsection 127 (5) to include a deficit of a board of education in a previous year and the amount of the increase exceeds a sum calculated, in the case of elementary school teachers, at one and one-half mills in the dollar and, in the case of secondary school students, at one mill in the dollar upon the total rateable property in the area municipality according to the assessment roll on which taxes were levied in 1982, new subsections 130j (4) and (5) require the termination of the employment of the additional teachers.

New subsection 130j (6) is a transitional provision that will enable the School Board to provide an initial basis for calculating the numbers of additional teachers.

- (b) does not exceed, in the case of elementary school teachers, a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1982 or, in the case of secondary school teachers, a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1982.

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced, Limitation

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and

- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1982, the board of education, Termination of employment, additional elementary school teachers

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and

- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1982, the board of education, Termination of employment, secondary school teachers

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and

- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Determination
as to
number of
teachers

- (6) For the purposes of subsections (1) to (5) in respect of the period from and including the 1st day of January, 1983 to the day that an agreement under section 130a comes into force, the School Board may determine, in such manner as the School Board considers proper, the number of teachers that a board is entitled to employ under an agreement under section 130a.

s. 133 (1),
amended

- 9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the number of teachers to be employed by the board is determined.

s. 133 (4)
(a, b),
re-enacted

- (2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor:

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

s. 219 (3, 4),
re-enacted

10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor:

SECTION 9.—Subsection 1. Subsection 133 (1) of the Act sets out the matters to be included in the annual estimates of a board of education in the Metropolitan Area. New clause 133 (1) (e) is complementary to new section 130*i* set out in this Bill.

Subsection 2. Subsection 133 (4) of the Act authorizes a board of education to submit to the council of the area municipality in which it has jurisdiction the estimates of the board after making allowance for the revenues to be derived from The Metropolitan Toronto School Board.

Clauses 133 (4) (a) and (b) limit the amounts that may be included for elementary school purposes and secondary school purposes in the estimates submitted by a board of education to the council of an area municipality. The amendment provides a formula for calculating the limit related to the amendments to section 127 of the Act.

SECTION 10. Subsections 219 (3) and (4) of the Act relate to the apportionment among the area municipalities of the amount levied by the Metropolitan Council for public school purposes and secondary school purposes. The subsections are re-enacted to relate to the amendments to section 127 of the Act.

SECTION 11. The amendments related to estimates and apportionments will apply to 1983 and subsequent years.

(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. Elementary school purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. Secondary school purposes

11.—(1) The following apply only in respect of estimates and apportionments in 1983 and subsequent years: Application of certain sections

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.
3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

(2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982. Idem

12.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on the 1st day of January, 1983. Idem

13. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1982*. Short title

An Act to amend the Municipality
of Metropolitan Toronto Act

1st Reading

May 28th, 1982

2nd Reading

June 28th, 1982

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and Minister of
Colleges and Universities

*(Reprinted as amended by the
General Government Committee)*

Bill 127

*(Chapter
Statutes of Ontario, 1983)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading May 28th, 1982

2nd Reading June 28th, 1982

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill contains amendments related to education.

SECTION 1. Section 116 is the interpretation section for Part VIII. The additions are complementary to new section 130a and following of the Act, set out in the Bill.

SECTION 2.—Subsection 1. Subsection 118 (4) of the Act now provides for a two-year term of office. The effect of the amendment is that the term of office will be governed by the *Municipal Elections Act*.

Subsection 2. The subsection provides that the term of office of members elected in 1982 will be for three years.

SECTION 3. The subsection proposed to be amended is set out below showing underlined the words to be deleted:

- (3) *The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6).*

The effect of the amendment will be to permit an alternate member of The Metropolitan Toronto School Board to participate in meetings of the School Board or of its committees that he attends; the prohibition against an alternate member voting is retained.

SECTION 4. The effect of the re-enactment of the subsection is to increase from eight to ten the number of members required to form a quorum when the School Board is dealing with matters affecting public schools exclusively and to increase from ten to eleven the number required to form a quorum in all other cases.

Over the years the School Board has been increased in size from 19 (16 and 3) to 20 (17 and 3) to the present 21 (18 and 3) members and it is appropriate that the quorum be increased accordingly.

SECTION 5. Section 125 of the Act deals with the term of office of members of the School Board. The section is re-enacted to provide for resignations and to make the provisions related to members of the School Board appointed by the Metropolitan Separate School Board more closely parallel those related to members appointed by boards of education.

SECTION 6. Clause 127 (1) (f) of the Act is amended to remove the maximum amounts of allowances that may be paid to members and the chairman of the School Board. New subsections 127 (1a) to (1c) are added to permit an outgoing School Board to determine the amounts of allowances to members, alternate members and the chairman of succeeding School Boards. The School Board may decrease the amount of allowance authorized by a predecessor School Board.

New subsections 127 (3) to (7) of the Act require the School Board to apportion its estimates of amounts required for public elementary school purposes and secondary school purposes to the area municipalities and set out the method of calculating the apportionments.

SECTION 7. New section 130a and following of the Act relate to collective negotiations between the boards (including The Metropolitan Toronto School Board) and teachers in Metropolitan Toronto.

New section 130a requires joint negotiations and a joint agreement between the boards and the branch affiliates at the elementary school level in respect of terms and conditions of employment in relation to salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. A similar requirement applies to negotiations and agreement at the secondary school level.

New sections 130b to 130e relate to the negotiation and ratification of the agreement.

New section 130f relates to the inclusion of additional provisions in an agreement mentioned in new section 130a.

New section 130g permits a board and a branch affiliate to negotiate and enter into an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

New section 130h relates to the relationship between the Act and the *School Boards and Teachers Collective Negotiations Act*. The section also contains transitional provisions related to the application of new sections 130a to 130i and specifies that the section is subject to the *Inflation Restraint Act, 1982* (Bill 179).

New section 130i authorizes the Ontario Labour Relations Board, on application by a board, to give directions where the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a. A direction by the Ontario Labour Relations Board will be enforceable in the same way as a judgment or order of the Supreme Court.

SECTION 8. New section 130j authorizes a board of education to employ more teachers than are provided for in an agreement under new section 130a subject to the conditions stated in subsections 130j (2) and (3).

Where the School Board increases the apportionment to an area municipality under new subsection 127 (5) to include a deficit of a board of education in a previous year and the amount of the increase exceeds a sum calculated, in the case of elementary school teachers, at one and one-half mills in the dollar and, in the case of secondary school students, at one mill in the dollar upon the total rateable property in the area municipality according to the assessment roll on which taxes were levied in 1983, new subsections 130j (4) and (5) require the termination of the employment of the additional teachers.

New subsection 130j (6) is a transitional provision that will enable the School Board to provide an initial basis for calculating the numbers of additional teachers.

SECTION 9.—Subsection 1. Subsection 133 (1) of the Act sets out the matters to be included in the annual estimates of a board of education in the Metropolitan Area. New clause 133 (1) (e) is complementary to new section 130i set out in this Bill.

Subsection 2. Subsection 133 (4) of the Act authorizes a board of education to submit to the council of the area municipality in which it has jurisdiction the estimates of the board after making allowance for the revenues to be derived from The Metropolitan Toronto School Board.

Clauses 133 (4) (a) and (b) limit the amounts that may be included for elementary school purposes and secondary school purposes in the estimates submitted by a board of education to the council of an area municipality. The amendment provides a formula for calculating the limit related to the amendments to section 127 of the Act.

SECTION 10. Subsections 219 (3) and (4) of the Act relate to the apportionment among the area municipalities of the amount levied by the Metropolitan Council for public school purposes and secondary school purposes. The subsections are re-enacted to relate to the amendments to section 127 of the Act.

SECTION 11. The amendments related to estimates and apportionments will apply to 1983 and subsequent years.

Bill 127

1982

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended, s. 116,
amended

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,
- (ii) The Federation of Women Teachers' Associations of Ontario, or
- (iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or
- (ii) The Ontario Secondary School Teachers' Federation.

s. 116,
amended

(2) The said section 116 is further amended by adding thereto the following subsection:

Interpre-
tation

(2) In this Part,

R.S.O. 1980,
c. 464

- (a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,
c. 129

- (b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

s. 118 (4),
re-enacted

2.—(1) Subsection 118 (4) of the said Act is repealed and the following substituted therefor:

Election and
term of office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

Transitional

(2) The members of the boards of education mentioned in section 118 of the said Act elected to office in the regular election in 1982 shall hold office for a term of three years and until their successors are elected and a new board organized.

3. Subsection 121 (3) of the said Act is amended by striking out “or otherwise participate” in the seventh line. s. 121 (3), amended

4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor: s. 124 (1), re-enacted

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry such matter. Quorum voting

5. Section 125 of the said Act is repealed and the following substituted therefor: s. 125, re-enacted

125.—(1) Except as provided in this section and in subsection 126 (5), the members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new board is organized. Term of office

(2) Where as a result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. Chairman of board of education

(3) A member of the School Board appointed by a board of education and who is not the chairman of the School Board may, with the consent, Resignation by member of School Board

(a) of the board of education that appointed him; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member without resigning from the board of education, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum under subsection 124 (1).

(4) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have Members appointed by Metropolitan Separate School Board

been held, and such members, except as provided in subsection (5) and subsection 126 (5), shall hold office until their successors take office and a new School Board is organized.

Resignation
of member
appointed by
Metropolitan
Separate
School Board

(5) A member of the School Board appointed by the Metropolitan Separate School Board may, with the consent,

(a) of the Metropolitan Separate School Board; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member, but shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum for secondary school purposes.

s. 127 (1) (f),
amended

6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines.

s. 127,
amended

(2) Section 127 of the said Act is amended by adding thereto the following subsections:

Allowances

(1a) The School Board may pay,

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

When
applicable

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of

members of boards of education in the Metropolitan Area next following the day of the determination.

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board.

Decrease

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

Apportionment by School Board

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by an amount that, in the opinion of the School Board, is equal to the portion of the surplus that was raised by local taxation in the area municipality.

Reduction of apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for

Calculation of apportionment

secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

- (a) that the total rateable property for public school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for public school purposes; and
- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Interpre-
tation

(7) In this section,

R.S.O. 1980,
c. 129

- (a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;
- (c) "total rateable property",
 - (i) in relation to an area municipality, means the sum of,
 - (A) residential and farm assessment,
 - (B) commercial assessment, and
 - (C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

7. The said Act is amended by adding thereto the following sections: ss. 130a-130i, enacted

130a.—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards. Elementary school agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards. Secondary school agreement

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. Contents of agreement

(4) In this section, “financial benefits” means, Interpretation

(a) compensation other than salary payable or provided directly or indirectly except money paid in reimbursement of expenses incurred in the performance of duties;

(b) a benefit that, at the date the agreement under which the benefit is provided is ratified, has a value that is required to be included in income under the *Income Tax Act* (Canada); and R.S.C. 1980, c. 148

(c) an insured employee benefit.

130b.—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a. Joint negotiations by boards

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130a shall be carried out under the Committee

direction of a committee with each of the boards appointing one member of the committee.

Decisions by
committee

(3) A decision by the majority of the members of the committee, representing together the employers of a majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the committee.

Ratification
by boards

(4) A decision by the committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified by a majority of the boards and the majority employs the majority of the elementary school teachers or secondary school teachers, as the case requires.

Replacement
of member of
committee

(5) The School Board may remove from the committee a person appointed by the School Board and a board of education may remove from the committee a person appointed by the board of education, but the School Board or board of education (as the case requires) shall appoint another person to the committee in the place of the person removed.

Joint negoti-
ations by
elementary
school
branch
affiliates

130c.—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appoint-
ments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Joint negoti-
ations by
secondary
school
branch
affiliates

130d.—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appoint-
ments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

130e.—(1) A committee directing negotiations on behalf of branch affiliates may determine its own procedures. Committee

(2) A decision by a committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified, Ratification

(a) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who are employed by the boards and participate in the ratification vote; and

(b) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who participate in the ratification vote mentioned in clause (a) conducted among the elementary school teachers or secondary school teachers, as the case may be, employed by each of a majority of the boards.

130f.—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the elementary school teachers employed by the boards. Additional provision of elementary school agreement

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards. Additional provision of secondary school agreement

130g.—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a. Elementary school local agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a. Secondary school local agreement

Priority

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

R.S.O. 1980,
c. 464

Separate
proceedings

(4) Negotiations to make or renew an agreement mentioned in section 130a and negotiations to make or renew an agreement mentioned in subsection (1) or (2) may proceed simultaneously and the *School Boards and Teachers Collective Negotiations Act* applies separately in respect of each such agreement and the negotiations and proceedings in respect of each such agreement.

Application
of
R.S.O. 1980,
c. 464

130h.—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application
of ss. 130a to
130i

(2) Sections 130a to 130i do not apply in respect of an agreement or negotiations to make or renew an agreement that is to come into force before the 1st day of September, 1983.

Term of
agreement

(3) An agreement that is to come into force before the 1st day of September, 1983 shall be for a term that ends on the 31st day of August, 1983.

Application
of Part

(4) No agreement between a board and a branch affiliate that comes into force on or after the 1st day of September, 1983 is valid unless the agreement is made or renewed in accordance with this Part.

Application
of 1982, c. 55

(5) Subsections (1) to (4) are subject to the *Inflation Restraint Act, 1982*.

Board not to
implement
variant term
or condition
of
employment
Direction by
O.L.R.B.

130i.—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a.

(2) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or

refrain from doing with respect to the term or condition of employment.

(3) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court.

Enforcement

(4) The *Labour Relations Act* applies with necessary modifications in respect of proceedings before the Ontario Labour Relations Board under this section.

Application
of
R.S.O. 1980,
c. 228

8. The said Act is further amended by adding thereto the following section:

s. 130j,
enacted

130j.—(1) In this section,

Interpre-
tation

- (a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;
- (b) “school year” has the same meaning as in the *Education Act*;
- (c) “total rateable property” means “total rateable property” as defined in subclause 127 (7) (c) (i).

R.S.O. 1980,
c. 129

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers,

Employment
of additional
teachers

- (a) is not included in the portion of the estimates of the board of education approved by the School Board; and
- (b) does not exceed, in the case of elementary school teachers, a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983 or, in the case of secondary school teachers, a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983.

Limitation

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced,

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and
- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

Termination
of
employment,
additional
elementary
school
teachers

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

Termination
of
employment,
secondary
school
teachers

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Determi-
nation as to
number of
teachers

(6) For the purposes of subsections (1) to (5) in respect of the period from and including the 1st day of January, 1983 to the day that an agreement under section 130a comes into force,

the School Board may determine, in such manner as the School Board considers proper, the number of teachers that a board is entitled to employ under an agreement under section 130a.

9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:

s. 133 (1),
amended

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the number of teachers to be employed by the board is determined.

(2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor:

s. 133 (4) (a,
b),
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor:

s. 219 (3, 4),
re-enacted

(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127.

Elementary
school
purposes

Secondary
school
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127.

Application
of certain
sections

11.—(1) The following apply only in respect of estimates and apportionments in 1983 and subsequent years:

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.
3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

Idem

(2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982.

Commence-
ment

12.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 comes into force on the 1st day of January, 1983.

Short title

13. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*.

Bill 127

*(Chapter 9
Statutes of Ontario, 1983)*

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Stephenson
Minister of Education and Minister of Colleges and Universities

<i>1st Reading</i>	May 28th, 1982
<i>2nd Reading</i>	June 28th, 1982
<i>3rd Reading</i>	February 23rd, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 127

1982

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended, ^{s. 116, amended}

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,
- (ii) The Federation of Women Teachers' Associations of Ontario, or
- (iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or
- (ii) The Ontario Secondary School Teachers' Federation.

s. 116,
amended

(2) The said section 116 is further amended by adding thereto the following subsection:

Interpre-
tation

(2) In this Part,

(a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,
c. 464

(b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

R.S.O. 1980,
c. 129

s. 118 (4),
re-enacted

2.—(1) Subsection 118 (4) of the said Act is repealed and the following substituted therefor:

Election and
term of office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

Transitional

(2) The members of the boards of education mentioned in section 118 of the said Act elected to office in the regular election in 1982 shall hold office for a term of three years and until their successors are elected and a new board organized.

3. Subsection 121 (3) of the said Act is amended by striking out "or otherwise participate" in the seventh line. s. 121 (3), amended

4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor: s. 124 (1), re-enacted

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry such matter. Quorum voting

5. Section 125 of the said Act is repealed and the following substituted therefor: s. 125, re-enacted

125.—(1) Except as provided in this section and in subsection 126 (5), the members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new board is organized. Term of office

(2) Where as a result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. Chairman of board of education

(3) A member of the School Board appointed by a board of education and who is not the chairman of the School Board may, with the consent, Resignation by member of School Board

(a) of the board of education that appointed him; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member without resigning from the board of education, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum under subsection 124 (1).

(4) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have Members appointed by Metropolitan Separate School Board

been held, and such members, except as provided in subsection (5) and subsection 126 (5), shall hold office until their successors take office and a new School Board is organized.

Resignation
of member
appointed by
Metropolitan
Separate
School Board

(5) A member of the School Board appointed by the Metropolitan Separate School Board may, with the consent,

(a) of the Metropolitan Separate School Board; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member, but shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum for secondary school purposes.

s. 127 (1) (f),
amended

6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines.

s. 127,
amended

(2) Section 127 of the said Act is amended by adding thereto the following subsections:

Allowances

(1a) The School Board may pay,

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

When
applicable

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of

members of boards of education in the Metropolitan Area next following the day of the determination.

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board.

Decrease

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

Apportionment by School Board

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by an amount that, in the opinion of the School Board, is equal to the portion of the surplus that was raised by local taxation in the area municipality.

Reduction of apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for

Calculation of apportionment

secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

- (a) that the total rateable property for public school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for public school purposes; and
- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Interpre-
tation

(7) In this section,

R.S.O. 1980,
c. 129

- (a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;
- (c) "total rateable property",
 - (i) in relation to an area municipality, means the sum of,
 - (A) residential and farm assessment,
 - (B) commercial assessment, and
 - (C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

7. The said Act is amended by adding thereto the following sections:

130a.—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards.

ss. 130a-130i,
enacted

Elementary
school
agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards.

Secondary
school
agreement

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined.

Contents of
agreement

(4) In this section, "financial benefits" means,

Interpre-
tation

(a) compensation other than salary payable or provided directly or indirectly except money paid in reimbursement of expenses incurred in the performance of duties;

(b) a benefit that, at the date the agreement under which the benefit is provided is ratified, has a value that is required to be included in income under the *Income Tax Act* (Canada); and

R.S.C. 1980,
c. 148

(c) an insured employee benefit.

130b.—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Joint negoti-
ations by
boards

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130a shall be carried out under the direction of a committee with each of the boards appointing one member of the committee.

Committee

Decisions by
committee

(3) A decision by the majority of the members of the committee, representing together the employers of a majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the committee.

Ratification
by boards

(4) A decision by the committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified by a majority of the boards and the majority employs the majority of the elementary school teachers or secondary school teachers, as the case requires.

Replacement
of member of
committee

(5) The School Board may remove from the committee a person appointed by the School Board and a board of education may remove from the committee a person appointed by the board of education, but the School Board or board of education (as the case requires) shall appoint another person to the committee in the place of the person removed.

Joint negoti-
ations by
elementary
school
branch
affiliates

130c.—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appoint-
ments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Joint negoti-
ations by
secondary
school
branch
affiliates

130d.—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appoint-
ments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Committee

130e.—(1) A committee directing negotiations on behalf of branch affiliates may determine its own procedures.

(2) A decision by a committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified,

Ratiofication

- (a) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who are employed by the boards and participate in the ratification vote; and
- (b) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who participate in the ratification vote mentioned in clause (a) conducted among the elementary school teachers or secondary school teachers, as the case may be, employed by each of a majority of the boards.

130f.—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the elementary school teachers employed by the boards.

Additional provision of elementary school agreement

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards.

Additional provision of secondary school agreement

130g.—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Elementary school local agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Secondary school local agreement

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a

Priority

R.S.O. 1980,
c. 464 (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

Separate
proceedings

(4) Negotiations to make or renew an agreement mentioned in section 130a and negotiations to make or renew an agreement mentioned in subsection (1) or (2) may proceed simultaneously and the *School Boards and Teachers Collective Negotiations Act* applies separately in respect of each such agreement and the negotiations and proceedings in respect of each such agreement.

Application
of
R.S.O. 1980,
c. 464

130h.—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application
of ss. 130a to
130i

(2) Sections 130a to 130i do not apply in respect of an agreement or negotiations to make or renew an agreement that is to come into force before the 1st day of September, 1983.

Term of
agreement

(3) An agreement that is to come into force before the 1st day of September, 1983 shall be for a term that ends on the 31st day of August, 1983.

Application
of Part

(4) No agreement between a board and a branch affiliate that comes into force on or after the 1st day of September, 1983 is valid unless the agreement is made or renewed in accordance with this Part.

Application
of 1982, c. 55

(5) Subsections (1) to (4) are subject to the *Inflation Restraint Act, 1982*.

Board not to
implement
variant term
or condition
of
employment

130i.—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a.

Direction by
O.L.R.B.

(2) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or refrain from doing with respect to the term or condition of employment.

(3) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court.

Enforcement

(4) The *Labour Relations Act* applies with necessary modifications in respect of proceedings before the Ontario Labour Relations Board under this section.

Application
of
R.S.O. 1980,
c. 228

8. The said Act is further amended by adding thereto the following section:

s. 130j,
enacted

130j.—(1) In this section,

Interpre-
tation

- (a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;
- (b) “school year” has the same meaning as in the *Education Act*;
- (c) “total rateable property” means “total rateable property” as defined in subclause 127 (7) (c) (i).

R.S.O. 1980,
c. 129

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers,

Employment
of additional
teachers

- (a) is not included in the portion of the estimates of the board of education approved by the School Board; and
- (b) does not exceed, in the case of elementary school teachers, a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983 or, in the case of secondary school teachers, a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983.

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the

Limitation

employment of the additional teachers limited by clause (2) (b) shall be reduced,

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and
- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

Termination
of
employment,
additional
elementary
school
teachers

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

Termination
of
employment,
secondary
school
teachers

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Determi-
nation as to
number of
teachers

(6) For the purposes of subsections (1) to (5) in respect of the period from and including the 1st day of January, 1983 to the day that an agreement under section 130a comes into force, the School Board may determine, in such manner as the School Board considers proper, the number of teachers that a board is entitled to employ under an agreement under section 130a.

9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:

s. 133 (1),
amended

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the number of teachers to be employed by the board is determined.

(2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor:

s. 133 (4) (a,
b),
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor:

s. 219 (3, 4),
re-enacted

- (3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127.

Elementary
school
purposes

Secondary
school
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127.

Application
of certain
sections

11.—(1) The following apply only in respect of estimates and apportionments in 1983 and subsequent years:

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.
3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

Idem

(2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982.

Commence-
ment

12.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 shall be deemed to have come into force on the 1st day of January, 1983.

Short title

13. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*.

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

An Act respecting Gas Credit Card Payments to Dealers

MR. SWART

EXPLANATORY NOTE

Producers, importers, or refiners of petroleum products or other persons who sell petroleum products at wholesale and issue credit cards to the public will be prevented by this Bill from making a charge or levying a discount against dealers because payment or part payment is made by credit card scrip.

BILL 128

1982

An Act respecting Gas Credit Card Payments to Dealers

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "dealer" means a person who sells petroleum products at retail;
- (b) "distributor" means a producer, importer or refiner of petroleum products, or other person who sells petroleum products at wholesale under his own brand name or names.

2. Where a purchase from a dealer is made by means of a credit card that is issued by a distributor, the distributor shall not make a charge or levy a discount in respect of the transaction.

No discount
respecting
credit card
purchases

3. Where a distributor contravenes section 2, the dealer may set the amount of the charge or discount off against any moneys that he owes the distributor.

Right of
set-off

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Gas Credit Card Payments Act, 1982*.

Short title

An Act respecting Gas Credit
Card Payments to Dealers

1st Reading

May 31st, 1982

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

**An Act to require that Consumer Contracts be Readable
and Understandable**

MR. MANCINI

EXPLANATORY NOTE

The Bill requires that consumer contracts be readable and understandable by the ordinary consumer. A consumer contract that contravenes the detailed requirements set out in subsection 2 (1) may be rescinded by the consumer, who is also entitled to recover any damages suffered as a result of the contravention and may be entitled to punitive damages.

BILL 129

1982

An Act to require that Consumer Contracts be Readable and Understandable

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "consumer" means an individual but does not include an individual, partnership or association of individuals acting in the course of carrying on business;

(b) "consumer contract" means a contract between a consumer and a person who is not a consumer for the purchase or rental by the consumer of,

(i) real property to be used for residential purposes,
or

(ii) goods and services;

(c) "goods" means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in the *Securities Act*; and

R.S.O. 1980,
c. 466

(d) "services" means services,

(i) provided in respect of goods or of real property,
or

(ii) provided for social, recreational or self-improvement purposes, or

(iii) that are in their nature instructional or educational,

and includes the provision of insurance.

Requirements
for consumer
contract

2.—(1) Where a consumer contract is made in writing, it shall,

- (a) be written in clear and coherent language;
- (b) contain only words that are generally understood, used in their common and everyday sense;
- (c) not contain a word that is used in a legal or technical sense inconsistent with its generally understood meaning;
- (d) be arranged in a logical sequence;
- (e) be appropriately divided and captioned;
- (f) have a table of contents, if the consumer contract exceeds 3,000 words or three pages in length;
- (g) not contain unnecessarily long or complex sentences;
- (h) not contain unnecessary cross-references;
- (i) not contain a double negative or an exception to an exception; and
- (j) not be printed in less than ten point type.

Technical
terms

(2) Despite clause (1) (b), a consumer contract may contain a technical word that is not generally understood where the technical word is required for the precise specification of a product or service.

Exceptions

- (3) Subsection (1) does not apply to a consumer contract,
- (a) that is entirely drafted as a result of detailed negotiations between the parties; or
 - (b) where the consumer has been represented in negotiations by a solicitor who signs the consumer contract as the consumer's solicitor.

Statutory
language

(4) Clauses (1) (b) and (c) do not apply to a word that is defined or whose use is prescribed under a statute or regulation.

Rescission

3.—(1) A consumer contract that contravenes subsection 2 (1) may be rescinded by the consumer and the consumer is entitled to recover any damages suffered as a result of the contravention.

Where
rescission
not possible

(2) Where rescission under subsection (1) is not possible because restitution is no longer possible, or because rescission

would deprive a third party of a right in the subject-matter of the agreement that the third party has acquired in good faith and for value, the consumer is entitled to recover any damages suffered as a result of the contravention.

(3) Where a consumer is entitled to a remedy conferred by subsection (1) or (2), the court may also award the consumer exemplary damages or punitive damages.

(4) A remedy conferred by subsection (1), (2) or (3) may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the consumer contract within six months after the consumer contract is entered into.

(5) A notice under subsection (4) may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing.

4. This Act applies despite any agreement or waiver to the contrary.

5. This Act binds the Crown.

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

7. The short title of this Act is the *Plain Language Act, 1982*.

An Act to require that Consumer Contracts
be Readable and Understandable

1st Reading

June 1st, 1982

2nd Reading

3rd Reading

MR. MANCINI

(Private Member's Bill)

